

MUNICIPAL FIRE AND POLICE CIVIL SERVICE



QUICKSTART

Contents

TIMELINE: Development of System and Important Legislative Highlights.....	5
A BRIEF HISTORY OF THE FIRE AND POLICE CIVIL SERVICE	8
THE STRUCTURE OF THE FIRE AND POLICE CIVIL SERVICE SYSTEM	10
WHY DO WE HAVE A FIRE AND POLICE CIVIL SERVICE SYSTEM?	11
THE OFFICE OF STATE EXAMINER	13
TESTING DIVISION	14
RESOURCE SERVICES DIVISION	15
THE FIRE AND POLICE CIVIL SERVICE BOARD.....	16
WHAT IS EXPECTED OF ME AS A BOARD MEMBER?.....	17
CAN I BE HELD PERSONALLY LIABLE FOR THE BOARD’S DECISIONS?	18
CAN I BE FORCED TO RESIGN OR BE VOTED OFF OF THE BOARD?	18
– POLITICAL ACTIVITY –	19
AS A BOARD MEMBER, WHOM DO I REPRESENT?	20
WHAT EXACTLY DOES THE BOARD DO?.....	20
BOARD MEETINGS.....	21
FREQUENCY OF MEETINGS	22
SCHEDULING MEETINGS	22
THE AGENDA	23
MINUTES OF MEETINGS.....	23
CONDUCTING MEETINGS.....	25
Nuts and Bolts About: MOTIONS	26
RECORDING MEETINGS BY THE PUBLIC	27
PHONE POLLS	27
WALKING QUORUM	28
PROXY VOTING	28
CHANCE MEETINGS.....	29
EXECUTIVE SESSIONS	29
PUBLIC MEETINGS AND PRIVACY RIGHTS	30
BOARD RULES.....	30
ADOPTING RULES.....	31
THE CLASSIFICATION PLAN	32
EMPLOYMENT IN THE CLASSIFIED FIRE AND POLICE SERVICES.....	33

DEMOTION.....	33
TRANSFER.....	35
REINSTATEMENT	35
RE-EMPLOYMENT.....	35
COMPETITIVE APPOINTMENT	36
PROMOTIONAL APPOINTMENT	36
TEMPORARY APPOINTMENT	37
EXAMINATIONS.....	38
CERTIFICATION AND APPOINTMENT	40
REVIEWING PERSONNEL ACTIONS.....	40
THE RECRUIT PERIOD	41
THE WORKING TEST	42
The Fire Service	42
The Police Service	43
EMPLOYEE APPEALS AGAINST DISCIPLINARY ACTIONS	44
Nuts and Bolts About: APPEALS	45
Notification:	45
Subpoenas:.....	45
Recusal of Board Members:.....	45
Conducting the Appeal Hearing:	46
Deciding the Issue and Rendering a Decision:	46
CONDUCTING INVESTIGATIONS.....	46
BOARD’S RELATIONSHIP TO THE DEPARTMENTS	47
PUBLIC RECORDS.....	47
OPERATING FUNDS	48
LEGAL ASSISTANCE.....	48
TERMS & DEFINITIONS	49
OTHER STATE AND FEDERAL LAW RELATING TO THE FIRE AND POLICE SERVICES	54
Minimum Salaries	54
Maximum Hours:	54
Sick Leave:.....	55
Annual Leave:.....	56
Work On Holidays:	56

Louisiana Fire Service Bill of Rights and the.....	57
Rights of Law Enforcement Officers While Under Investigation:	57
Veterans’ Benefits Laws and the USERRA:.....	57
NOTABLE COURT CASES	59
APPEALS	59
St. Tammany Parish Fire Protection Dist. No. 4 v. Picone (53 So.3d 704).....	59
APPOINTMENTS	59
BOARD RULES.....	60
BOARD AUTHORITY	60
CLASSIFIED EMPLOYMENT	61
PAY MATTERS.....	62
La Grange v. Fire Protection Dist. No. 4 of St. Tammany Parish (868 So.2d 40).....	62
NOTABLE ATTORNEY GENERAL OPINIONS.....	64
APPEALS – BOARD.....	64
APPOINTMENTS	65
APPOINTING AUTHORITY	65
BILL OF RIGHTS.....	66
BOARD DUTIES AND AUTHORITY	67
BOARD MEMBERS/MEMBERSHIP	67
CLASSIFIED SERVICE	68
DISCIPLINARY ACTION	68
EMPLOYMENT	68
LEAVES OF ABSENCE	69
LEGAL COUNSEL; FUNDING FOR CIVIL SERVICE BOARDS	70
MEDICAL EXAMINATIONS	70
MILITARY SERVICE	70
PUBLIC MEETINGS.....	71

TIMELINE: Development of System and Important Legislative Highlights

- 1934** - Act 22 of the Second Extraordinary Session of 1934 created a State Civil Service Commission composed of the following: Governor, Lieutenant Governor, Speaker of the House of Representatives, State Superintendent of Public Education, Attorney General, Secretary of State, and the Superintendent of the Bureau of Criminal Identification and Investigation. The state commission was given the power to investigate the heads of all local municipal police and fire departments, except those elected by direct vote of the people and to "require of them proof of their competence to hold such position." The Commission was given the power to remove such head if he was found to be incompetent, as well as the power to pass on all new heads. (The Commission used its authority to terminate the Alexandria Police Chief after the chief refused to permit Huey Long's bodyguards from pursuing individuals who had allegedly thrown trash at the senator during a visit to the city.) The Commission could also suspend members of the fire and police forces on its own initiative or, after inquiry or hearing, compel a person's dismissal. It, and not local officials, issued warrants of appointment that were good only for a six-month period. Firefighters and police officers whose warrants were not renewed found they were immediately without a job. Members of the police and fire departments could be dismissed by the department head, but his action was subject to review by the Commission.
- 1940** - Act 253 of 1940 created the Municipal Fire and Police Law which applied to cities with populations from 16,000 to 100,000. The six original cities in the system were **Alexandria, Baton Rouge, Lafayette, Lake Charles, Monroe, and Shreveport**. Act 253 created a five member civil service commission in each city, and also created the office of State Civil Service Examiner to be appointed by the governor with the consent of the Senate. The Municipal Fire and Police Law provided that seniority should be the basis for all promotions, as well as for reductions in force. The Department of Civil Service temporarily administered the Municipal Fire and Police Civil Service System from 1940 to 1944.
- 1942** - The population minimum for inclusion in the system was lowered from 16,000 to 13,000, thus including the cities of **New Iberia** and **Bogalusa**. In 1942 the system covered 575 classified fire fighters and 500 police officers.
- 1944** - The Municipal Fire and Police Civil Service was officially separated from State Civil Service on July 27, 1944, by Act 102 of 1944.
- 1948** - The upper population limit for inclusion in the system was changed from 100,000 to 250,000.
- 1952** - Act 302 of 1952 incorporated the Fire and Police Civil Service into the Constitution of 1921 by amendment. Following passage by the Legislature, the amendment was approved by the voters in November 1952.

- 1964** - Act 282 of 1964 broadened the scope of applicability to employees of the fire and police services in municipalities with populations of 7,000 to 13,000. It was made applicable also to each parish and each fire protection district.

- 1970** - Act 643 of 1970 created a classified fire and police civil service in all municipalities having a population between 250,000 and 500,000.

- 1974** - Article X, Section 16 of the Louisiana Constitution of 1974 provided for the establishment of a system of classified fire and police civil service in municipalities with populations exceeding 13,000, and in all fire protection districts operating a regularly paid fire department. Section 17 provided that permanent appointments shall be made only after certification by the applicable municipal fire and police civil service board under a general system based upon merit, efficiency, fitness, and length of service as provided in Article XIV, Section 15.1 of the Constitution of 1920, subject to change by law enacted by two-thirds of the elected members of each house of the legislature. Section 18 provided that "Except as inconsistent with this Part, the provisions of Article XIV, Section 15.1 of the Constitution of 1921 are retained and continued in force and effect as statutes." The applicable statutes are Louisiana Revised Statutes 33:2471 et seq., and 33:2531 et seq.

- 1992** - Act 497 of 1992 amended and reenacted Louisiana R.S. 22:1419(A), relative to dedications of the Insurance Rating Commission Expense fund to create the Municipal Fire and Police Civil Service Operating Fund in the state treasury by dedicating 2/100 of 1 percent of gross insurance premiums for the operation of the Office of State Examiner.

- 1999** - Act 931 of 1999 further amended R.S. 22:1419(A)(2) to provide for increased dedications of the Insurance Rating Commission Expense fund to the Municipal Fire and Police Civil Service Operating Fund in the amounts of 2.25 1/100ths for premiums paid in 1998, 2.37 1/100ths by 2001, and 2.5 1/100ths by 2003 and every year thereafter.

- 2006** - Following the devastating effects of Hurricanes Katrina and Rita in 2005, many fire and police departments found that they were unable to maintain adequate staffing due to displacement of employees and the increased need to provide for public safety in the aftermath. Under law in effect at the time, emergency appointments were good for only a 10-day period. Permanent entry-level appointments could not be filled without the civil service board's call for an examination, and certification by the board of candidates' eligibility. By Act 493 of 2006, the State Examiner was authorized to call for competitive entrance tests and furnish the candidates' scores, which a board would later approve for subsequent appointment.

- 2010** - Act 748 of 2010 is the first of several similar legislative acts to come which gives the authority to the governing authority of a municipality to adopt an ordinance which would provide that the otherwise promotional class of Deputy Chief of Police would be filled on the basis of a competitive appointment. The Act limited candidates to employees within the police department at the rank of Police Sergeant and not less than eight years of full-time law enforcement experience. The employee appointed to the position of Deputy Chief of Police is entitled to sit for the promotional exam for the class next higher to the class from which he was appointed as Deputy Chief of Police. His eligibility, however, is suspended until such time

that he returns to his prior class of position. An employee so appointed serves indefinitely, is subject to a mandatory evaluation every three years after which the appointment may be terminated at the discretion of the police chief.

- 2013** - Act 331 of 2013 increases the amount of time of eligibility that a name and score remains in effect on a promotional employment list. The time is increased from 18 months to 48 months. However, the requirement that promotional examinations must be administered every 18 months remains in effect.
- 2015** - Act 243 of 2015, which is applicable only to the City of Lake Charles (effective also to the City of Lafayette in 2016), is the first ever revision to selection by seniority in the Municipal Fire and Police Civil Service Law. Among other provisions defining departmental seniority and promotional seniority, Act 243 provides that promotions in the classified police service of Lake Charles shall be made by selection of the person with the greatest seniority in the next lower class. All time served in the next lower class, including temporary appointments and the working test period, is calculated for promotional purposes.
- 2020** - Act 38 of the 2020 Regular Legislative Session, makes significant revisions to how a post for an exam and reduces the time line from 30 days to 10 days. This Act requires boards to post all competitive exams on the OSE website and the municipalities' if available. The board will no longer be required to run an ad in the newspaper. This Act also requires the OSE to create and maintain a statewide list of eligibilities for entrance police officer and entrance firefighter. The Act requires the OSE to call for and administer these two exams. Additionally it requires the OSE to provide for online testing by July 2021.

A BRIEF HISTORY OF THE FIRE AND POLICE CIVIL SERVICE

Throughout the State of Louisiana prior to 1940, the staffing of state and local government jobs was primarily controlled by political patronage. Employment decisions were made less on the basis of one's skills and abilities, but more on the basis of what a person had done to get a politician elected or what he could do to get him reelected. Louisiana has a long history of the "Spoils System," and positions in law enforcement and fire protection were not exempt from the abuses. Before today's civil service systems in Louisiana were finally established, lawmakers provided systems that appeared to have been based on merit factors, but in fact were patronage systems masked as merit systems. For example, the first so-called state civil service commission was comprised of the governor, the lieutenant governor, the speaker of the House of Representatives, the state superintendent of public education, the attorney general, the secretary of state and the superintendent of the bureau of criminal identification and investigation. (Acts 1934, Second Extra. Session, No. 22.) Its intent, and of those that followed until a bona fide merit system was finally enacted, was to establish complete control over local politics by a strong, centralized state government. The following excerpts from L. Vaughan Howard's Civil Service Development in Louisiana (Tulane University, New Orleans, LA, 1956) illustrate that period:

"... The commission was given the power to investigate the heads of all municipal police and fire departments except those elected by direct vote of the people and to 'require of them proof of their competence to hold such a position.' If in the opinion of the commission any such head was incompetent, he could be removed. The commission was also given the power to pass on all new heads. Local appointing authorities were directed to submit their selections to the commission. If such persons were not approved, a new name or a list had to be submitted within five days. If these persons were unsatisfactory, the commission itself could make the selection.

"Members of police and fire departments could be dismissed by the department head but his action was subject to review by the commission, which could also suspend members of the force on its own initiative or, after inquiry or hearing, compel a person's dismissal. . . .

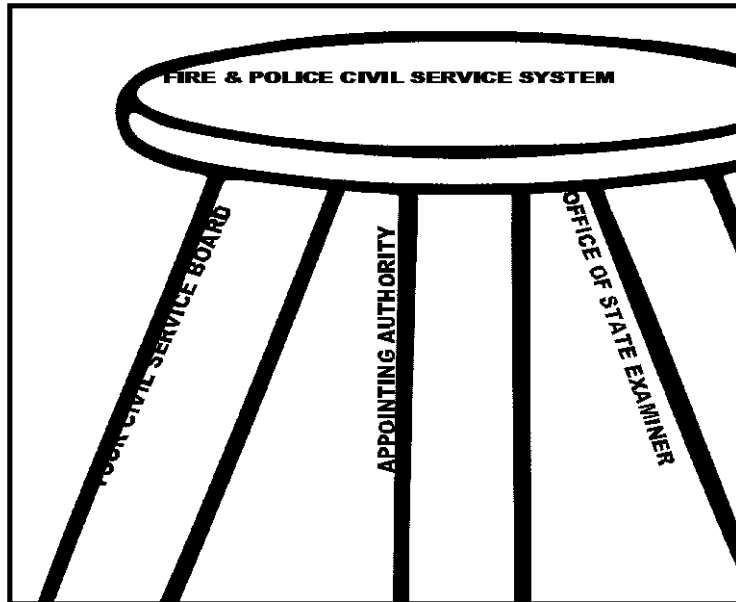
"... There were several instances before Senator Long's death in which agencies took action against local officials. The civil service commission, for example, fired the Alexandria chief of police for "incompetency." The real reason was reported to have been his refusal to permit Senator Long's bodyguards to pursue certain persons who had showered the senator with eggs and vegetables when he was in Alexandria some months earlier. With respect to policemen and firemen generally, the commission issued warrants of appointment which were good for six months only. Those whose warrants were not renewed automatically lost their jobs. . . ."

In 1940 the first Municipal Fire and Police Civil Service Law was enacted. It applied to only five cities: **Alexandria, Baton Rouge, Lafayette, Lake Charles, Monroe, and Shreveport.** Although the state civil service system was repealed briefly, the fire and police system remained in effect and viable. Finally, when the public began to demand that strong civil service should be established for public employees, advocates successfully placed the laws within the Constitution of 1921. In 1952 the state constitution was amended to include the entire body of the existing fire and police civil service law.

In 1964, the Fire and Police Civil Service System for Small Municipalities, Parishes and for Fire Protection Districts was established by Act 286. It is applicable to municipalities with populations between 7,000 and not more than 13,000. Parishes and fire protection districts are also included, notwithstanding their populations. In each of the political subdivisions, the system embraces the positions of employment, the officer, and employees of the fire and police services, and mandates that permanent appointments and promotions for the paid firemen and policemen shall be made only after certification based upon competitive examination, pursuant to merit, efficiency, fitness and length of service. This system mirrors heavily the language of the large cities' fire and police civil service law, containing nearly identical language. One outstanding difference is that the system is applicable if a municipality operates only one of either the fire and police services. Therefore, for example, if a small city provides a full time police department, but the city relies on fire protection from the parish or a fire protection district, the city must appoint a police civil service board for its police employees.

In the early 1970's, a Constitutional Convention was convened, among other reasons, to simplify the state's constitution. Included among the revisions was a scaled back provision for the Municipal Fire and Police Civil Service Law, under Part II, Article X, Sections 16-20. The provision for the MFPCS makes mandatory the system of fire and police civil service for municipalities with populations of 13,000 to 400,000 that operate regularly paid fire and police departments, as well as parishes and fire protection districts that operate a full-time paid fire department. Because a primary reason for calling for a Constitution Convention was to shrink the size of Louisiana's Constitution, the provisions of Article XIV, Section 15.1 of the 1921 Constitution were continued in force and effect as statutes, and are codified as LSA-R.S. 33:2471 et seq. This set of statutes is commonly referred to as the Municipal Fire and Police Civil Service Law for Large Municipalities. All provisions of Article XIV, Section 15.1 of the 1921 Constitution are "Super Statutes," meaning that a 2/3 vote of the elected members of both houses of the Legislature is required to implement any change. The Legislature is prohibited from abolishing the MFPCS or from making the system inapplicable to its covered political subdivisions. Other local or parish-wide civil service systems which may be established under Part I, Article X, Sections 1 - 14 are prohibited by Sections 15 and 19 from including employees of the fire and police classified service. The City of New Orleans is excluded from the MFPCS System because of its population at the time that the current constitution was ratified. The Constitution provides separately for a system of classified service for fire and police in the City of New Orleans.

THE STRUCTURE OF THE FIRE AND POLICE CIVIL SERVICE SYSTEM



The MFPCS System operates, in principle, on three legs of administration within your jurisdiction that is fundamental to having a functional and effective civil service system. The first leg is your civil service board (Board), which is charged by the MFPCS Law with duties and responsibilities provided for under LSA-R.S. 33:2467 (Large City Law) and R.S. 33:2537 (Small City Law). Your Board's ultimate responsibility is to represent the public interest. Many believe that allegiances are to those whose actions resulted in your appointment.

For example, a Board member may feel that his nomination and appointment by the Governing Authority (GA) means his deliberations and actions should heed the wishes of the GA, or that the employee members elected to serve by his colleagues must be responsive to and protective of the employees. These ideas of allegiances are misplaced in matters of personnel administration in the fire and police service, however. We will discuss later in more detail the duties and responsibilities of your board, but it is important to establish that your duty to effectively represent the public's interest in the personnel administration of the fire and police services is the very reason for your Board's existence.

The second leg is the governing authority; the entity within your political subdivision that is responsible for passing ordinances and resolutions. It is the legislative branch of your local government. In cities, it may be the city council or the board of aldermen. In parishes, these bodies are the parish council or the parish police jury. In fire protection districts, the governing authority may be the parish governing authority or a fire board of commissioners whose members are appointed usually by the parish governing authority. It is the GA which makes appointments to the civil service board. Your appointment was made by your local governing authority, and at the expiration of your term (three years, except for appointments to the original board) or upon your resignation or death, your predecessor will also be selected by the GA.

Often, but not in all cases, the Governing Authority is also the appointing authority (AA), or the person or entity that is given the authority over the classified employees to hire, promote, demote, supervise, discipline and discharge. Sometimes, the authority to perform this function is delegated to the mayor, fire chief, police chief, or other officer of the political subdivision. In most Lawrason Act cities, the duties of the appointing authority rest with both

the mayor and the board of aldermen. Many Lawrason Act cities have an elected police chief, who must first make recommendations to the mayor and board of alderman before a personnel action may be taken. Some Lawrason Act cities have had special legislation enacted that gives the power of appointing authority to the elected police chief. Inquiry with your local government's attorney should assist you with determining who possesses the power of the appointing authority in the local government in which you are serving.

Finally, the remaining leg on which the system operates is the Office of State Examiner (OSE). A primary function of the OSE is to develop, administer, and score pre-selection employment examinations in order to establish lists of qualified candidates for the fire and police services. The OSE also serves a critical function to serve in an advisory capacity to civil service boards and its members, like yourself, in order that you may effectively execute your duties and responsibilities as a Board member. The Board is comprised primarily of private citizens from your area. Few "civilian" members are familiar with the fire and police civil service law or, for that matter, with other federal, state, and local laws or regulations, policies, procedures, and the culture of fire and police organizations. While we are not attorneys, and we do not give legal advice, the State Examiner is statutorily required to provide advice regarding the duties and responsibilities imposed upon those officers and officials by the provisions of the MFPCS Law. For specific legal opinions or interpretations of law, we urge consultation should be sought with a lawyer or legal representative.

It is important to consider that, regardless of perceptions, the local governments through their appointing authorities, always have the right of appointment, the right to determine how the departments should be organized and run, and the right to create positions and to assign duties accordingly for the efficient operation of the respective departments. The Boards, comprised of local citizens, assist in an advisory capacity in some situations, assist in staffing by developing lists of eligibles and reviewing the legality of personnel movements, and serve as an avenue of appeals of alleged bad faith disciplinary actions and to take up other matters where the compliance or enforcement of the MFPCS Law is required. The OSE possesses no executive authority as to the application of the civil service law. Its purpose, among others, is to advise and to make recommendations that will contribute to efficiency of the fire and police classified system.

WHY DO WE HAVE A FIRE AND POLICE CIVIL SERVICE SYSTEM?

In our discussion about the history of civil service in Louisiana, we learned that the principle of "To the victor belong the spoils" was the prevailing school of thought for politicians and political supporters, particularly as it was applied in government employment. Jobs in local government were doled out by victorious politicians to their supporters, including law enforcement and fire protection jobs in which citizens' lives and property were entrusted. With new administrations taking office, police and fire departments were swept up in wholesale turnover. The practice ignored job knowledge and experience, promoted favoritism, and undermined public safety.

The fire and police civil service system in Louisiana promotes long-term careers in public safety. It assures that employment and promotions are based on merit, efficiency, fitness and length of service. Employment in the classified fire and police civil service is merit-based through testing and certification and only those who pass the appropriate exam are eligible for appointment. Each candidate selected for appointment must successfully complete a performance test (working test period) that lasts for the duration of a minimum period of six months, up to one year. The OSE advises that working test periods are the appointing authority's best opportunities to evaluate employees' work behaviors; however, they are not often used as they are intended.

To become a "regular and permanent" employee in a position, the working test period must be successfully completed. An employee cannot be confirmed as regular and permanent before having served a working test of at least six months. The appointing authority determines the date on which a probational employee is deemed to have completed the working test, whether by passing or failing. For entry level positions, the date on which an employee has passed the working test is the date from which his departmental seniority begins.

We note here, that transfers from a fire or police department of one jurisdiction to a fire or police department of another jurisdiction, or, more directly, from one class in one department to a class of the same title in another, is not possible under the current Fire and Police Civil Service Law. Notwithstanding differences in organizational cultures, duty and responsibilities (think small municipality vs. large municipality), there is no provision for moving one's seniority to another department and stepping over established employees.

Some vacancies are filled by competitive appointment, in which all candidates who pass a test are equally eligible for employment. In the case of vacancies in promotional positions, all candidates who pass the test are also eligible to be appointed; however, civil service law guarantees the first vacancy must be offered to the employee on the list who possesses the greatest departmental seniority. If an offer is declined, the employee having the next highest seniority is offered the appointment, and so on. Total departmental seniority only guarantees who will be offered an opportunity to serve in the working test; it does not guarantee permanent appointment in the promotional position.

Efficiency in the service means that classified employees must at all time serve in good behavior. Fitness of mind and body is also a requirement for continued employment. Efficiency and fitness equate to disciplined employment, and an employee's failure to maintain discipline is cause for corrective action up to and including termination of employment. Contrary to popular belief, classified employees are not guaranteed a "job for life," and each employee must be held accountable for his actions and behavior during employment. Under the Fire and Police Civil Service System, there are fifteen reasons for which an employee may be subjected to disciplinary action, including termination. On the following page is list of the fifteen reasons for which corrective or disciplinary action may be taken against classified employees.

- (1) Unwillingness or failure to perform the duties of his position in a satisfactory manner.
- (2) The deliberate omission of any act that it was his duty to perform.
- (3) The commission or omission of any act to the prejudice of the departmental service or contrary to the public interest or policy.
- (4) Insubordination.
- (5) Conduct of a discourteous or wantonly offensive nature toward the public, any municipal officer or employee; and, any dishonest, disgraceful, or immoral conduct.
- (6) Drinking vinous or spirituous liquors while on duty or reporting for duty while under the influence of liquor.
- (7) The use of intoxicating liquors, or habit forming drug, liquid, or preparation to an extent which precludes the employee from performing the duties of his position in a safe or satisfactory manner.
- (8) The conviction of a felony.
- (9) Falsely making a statement of any material fact in his application for admission to any test for securing eligibility or appointment to any position in the classified service, or, practicing or attempting to practice fraud or deception in any test.
- (10) Using or promising to use his influence or official authority to secure any appointment to a position within the classified service as a reward or return for partisan or political services.
- (11) Soliciting or receiving any money or valuable thing from any person for any political party or political purpose.
- (12) Inducing or attempting to induce by threats of coercion, any person holding a position in the classified service to resign his position, take a leave of absence from his duties, or waive any of his rights under the provisions of this Part, or of the rules.
- (13) The development of any defect of physical condition which precludes the employee from properly performing the duties of his position, or the development of any physical condition that may endanger the health or lives of fellow employees.
- (14) The willful violation of any provision of this Part or of any rule, regulation, or order hereunder.
- (15) Any other act or failure to act which the board deems sufficient to show the offender to be an unsuitable or unfit person to be employed in the respective service.

THE OFFICE OF STATE EXAMINER

The Office of the State Examiner of Municipal Fire and Police Civil Service is established in the Fire and Police Civil Service Law, and, as the name implies, the state examiner, his deputy, and his staff of professional Human Resources Consultants are responsible for

developing, administering, and scoring all competitive and promotional examinations required for employment and appointment in the classified fire and police services. The OSE, as it is commonly called, is located in Baton Rouge. It's address is:

8550 United Plaza Boulevard, Suite 901
Baton Rouge, LA 70809

In addition to its obligation to provide employment testing for the fire and police services, the OSE functions as an advisory agency. The OSE also assists the various fire and police civil service boards in an advisory capacity in the discharge of their duties, and assist and cooperate in an advisory manner with the various appointing authorities, local officials, department chiefs and the classified employees regarding the duties and responsibilities imposed upon them by the provisions of the Fire and Police Civil Service Law. Another major function of the OSE is its involvement in preparing and submitting a classification plan and operational rules for each board for its approval and adoption. Each class description and set of qualification requirements that have been adopted by your Board began with a job analysis conducted by the OSE of each classified fire and police position of employment. The job analysis provides documentation necessary to demonstrate that the exams and class descriptions are validated as being job related, and are based upon the technical standards promulgated by the *EEO Uniform Guidelines on Employee Selection Procedures*.

TESTING DIVISION

Employment tests in both the private and public sectors are widely viewed to be one of the most cost-effective means of identifying candidates for hiring or promotion who possess the necessary knowledge, skills and abilities (KSAs) to be successful in their prospective jobs. For nearly seventy years, the OSE has been charged by the state constitution and statutes with the responsibility for developing and administering employment tests for the purpose of identifying applicants who are qualified and have the skills necessary for jobs in the fire and police services within the state of Louisiana. In order for a test to be used for selection, it must be validated and supported by adequate documentation, and administered fairly and impartially. The validation of exams is done at all times with a goal of selecting qualified applicants while minimizing adverse impact on protected groups.

As mentioned above, each test prepared and administered by the OSE is based on a thorough and extensive job analysis. Entrance tests often measure competencies associated with applicants' trainability, such as reading comprehension, math, mechanical aptitudes, and listening skills. Promotional tests generally evaluate job knowledge or expertise that candidates must possess immediately upon promotion, and some upper-level and specialty classes involve assessment center testing where candidates are given a job simulation exercise that allows a pool of trained raters to evaluate management and interpersonal communications skills. The type of tests provided for under the Fire and Police Civil Service Law may include written or oral questions, trials in the performance of work characteristic of the class, inquiries into facts relating to education, experience and accomplishments in

specialized lines of endeavor, or any combination of these and other elements duly related to the purposes of the test. The OSE primarily uses multiple choice examinations due to their efficiency in administration and scoring. However, the agency also utilizes “in-basket” and other job simulation tests, depending upon the class for which the test is being given.

On average, the agency administers over 500 examinations to approximately 6,000 candidates per year. The number of candidates has risen in past years to well over 8,000 candidates per year during when the country is experiencing an economic downturns, or major national event, such as the spike that occurred following the 9/11 attacks. Of the 6,000 candidates, approximately 20% are immediately screened out of the selection process, leaving those who possess the necessary knowledge, skills, and abilities to be further scrutinized by the post-test selection process and working test.

The OSE uses its own standardized tests for entrance and first-line supervisory classes, which require that candidates must possess similar knowledge, skills and abilities across all jurisdictions, notwithstanding the size of the department. Our experience has revealed, however, that there are wide distinctions duties and responsibilities in the promotional classes above Police Sergeant and Fire Captain. In order to adequately measure the required KSA's in light of the variance of job differences, the OSE customizes exams for such promotional classes according to each jurisdiction. A test given for District Fire Chief in a fire protection district, therefore, will be quite different from a test given for District Fire Chief in a large city, such as Baton Rouge. Our process of designing the test around the local job analysis information insures that it will measure knowledge and skills required on that particular class in that particular department. While this process is extensive and time-consuming, we believe the outcome in terms of job relatedness and validity is worth the effort. There has never been a successful legal challenge to an OSE test.

RESOURCE SERVICES DIVISION

Constitutionally and statutorily mandated services provided under this agency activity include: the development of classification plans based on local job analysis; the review of all personnel movements within the system; the review of requests for examinations by civil service boards; the review of lists of candidates approved by local civil service boards for compliance with the law; maintaining a tracking site for fire and police related legislation, the development and distribution of training materials, including manuals and videos; disseminating information via the agency website and seminars, and responding to requests for information through agency in-person visits, letters, and 24-hour availability by telephone. Through the provisions of these services, the MFPCS system operates in accordance with the law and provides the employees in the system with the confidence that they may do their jobs free from political influence in a climate that provides fair hiring and promotions and an independent, objective review of disciplinary actions, to ensure that they are only taken in good faith for cause. Local officials and administrative personnel, on the other hand, are provided with the tools necessary to insure compliance with federal and state law in the effective management of fire and police personnel. The Municipal Fire and Police Civil Service System is currently comprised of 144 jurisdictions, which have either established a fire and

police civil service board, or have been identified and notified of the requirement to establish civil service. Civil service boards are made up of local citizens who serve three-year terms without compensation. Generally these members have no previous experience in civil service or employment law; therefore, the central, independent oversight by the Office of State Examiner makes the operation of the system possible. The system is extremely cost-effective in that most of the work is done locally through the independent local civil service boards. Qualified fire and police personnel serve with confidence even in rural areas because they are assured of a professional, merit-based system. The 2.9 million citizens who live in the areas served benefit from the quality of first responders made possible through the system.

THE FIRE AND POLICE CIVIL SERVICE BOARD

With the exception of the Shreveport Municipal Fire and Police Civil Service Board, which is comprised of nine members, a local civil service board in a jurisdiction that operates either a fire or a police department will be comprised of three members. For example, all parishes and fire protection districts whose employees are in the fire service have three-member fire civil service boards; whereas, a city operating both fire and municipal police departments will have five members on the civil service board. Years ago, the City of New Iberia dissolved its municipal police department, but it continues to operate a fire department. Like her larger sister Shreveport, New Iberia's board composition was revised through special legislation in order that the New Iberia Fire Civil Service Board could maintain its five-member board.

Also, with the exception, again, of the Boards in Shreveport, as well as in New Iberia, civil service boards include one employee representative who is elected from each department; the governing authority appoints a member on its own nomination; and the remaining appointments are made by the governing authority from a list of names provided by the executive head of the closest (geographically) four-year institution of higher education. After the initial terms when a jurisdiction first enters the system, all civil service board members serve three year terms, unless a specific appointment is made to fill an unexpired term of another member.

The Board chairman and vice-chairman are elected for terms concurrent with their appointments. Should either resign from the Board, a new election for that particular office would be held. Even if a chairman or vice chairman completes his/her term and is reappointed, a new election must be held when the new term begins.

Any Board member who has not been elected as an officer may serve as the Board secretary. However, should the Board wish to have someone other than a member serve in this capacity, it has two other options:

- a. The city clerk may serve as secretary or secretary-treasurer of the municipality may fill the office ex officio.

- b. The Board may hire anyone on a part-time basis. Boards' secretaries salaries are capped at \$1,250/month in cities above 13,000. In cities below 13,000, and in parishes and fire protection districts, the salary is capped at \$750. (There are some exceptions; however, these caps apply to most Boards.) Such salaries shall be approved by the local governing authority.

MFPCS KEY TO SUCCESS



A Board member who serves in the office of the Secretary shall not receive compensation for his or her services as the Board Secretary!

WHAT IS EXPECTED OF ME AS A BOARD MEMBER?

Experience in personnel management and fire or police work is not required for appointment to the board. All that is required, really, is some common sense, the ability to discern given a set of circumstances, and to have a sense of justice and fairness. For the board to function as it should, however, it is imperative that each member should make a commitment to attend meetings. Some of the frustrations experienced by those associated with the system in some jurisdictions arise from the fact that the Board seems unable to conduct even routine business due to a lack of a quorum.

It is also extremely helpful and strongly encouraged to obtain a basic understanding of the *Fire and Police Civil Service Law* that is applicable to your area, as well as your board's duties, the selection process of fire and police personnel, and the appeals process. You may find it helpful to familiarize yourself with Louisiana's Open Meetings Laws, because your Board is required to comply with them as a public body. Parliamentary procedures, such as may be found in Robert's Rules of Order, will assist you with an understanding of how meetings are organized and how business is conducted in an orderly fashion. Of course, information about all of this is available to you through OSE's many supportive publications and website pages, but it should never be obtained to the exclusion of contacting the OSE directly. Please don't feel as though you have to "go it alone." There's no need to reinvent the wheel, and you'll find the OSE staff is willing, able, and ready to provide any assistance you may need. No problem or question is outside the scope of our attention. The State Examiner and Deputy State Examiner invite you to contact them personally ANYTIME. We've

included our contact information conveniently within this manual, and we hope you will as often as needed.

MFPCS KEY TO SUCCESS



Please do not accept an appointment to the civil service board if you are not willing to make the commitment to attend meetings. It is a three-year commitment, but a most rewarding one!

CAN I BE HELD PERSONALLY LIABLE FOR THE BOARD'S DECISIONS?

Again, we are not attorneys, and the question of personal liability as a Board member should be appropriately directed to an attorney. It is our understanding, however, that most public officials have protection by what is known as qualified immunity. This is understood to mean that a public official is protected from liability unless the official violates “clearly established statutory or constitutional rights of which a reasonable person would have known.” You may wish to consult the section of the manual under *Attorney General Opinions* for a discussion about qualified immunity, as well as other opinions related to board membership, public office, and the MFPCS Law.

CAN I BE FORCED TO RESIGN OR BE VOTED OFF OF THE BOARD?

Once a board member has taken the oath or affirmation of office, it is very difficult to be “fired” as a civil service board member. Unlike many other boards and commissions, the governing authority cannot simply decide to replace you in the middle of your term, nor may disgruntled fire and police personnel simply decide to elect a new representative. Only by judgment of the Courts may a member of the MFPCS Board be removed from office. The Legislature appears to have taken political patronage very seriously during the drafting of the MFPCS Law, as well as the laws providing for the other civil service systems in Louisiana. Therefore, no person who has been appointed to serve on the MFPCS Board may be caused to resign because he doesn't vote the way he's “expected” to, or doesn't share the same point of view as the majority.

While it is very difficult to remove a Board member, it is not impossible. If a member must be removed, a written petition seeking removal of the member must specify charges against the member, and the petition must be signed by at least twenty-five citizen taxpayers of the area served. The petition must then be filed with the district attorney. If the district attorney finds there is cause for removal, he must institute a suit with the district court having jurisdiction over the Board member's domicile. If the petitioners have retained legal representation, the DA must associate himself with the attorney in the diligent prosecution of the suit.

The reasons stated for the removal of a Board member are the following:

- High crimes and misdemeanors in office
- Incompetency
- Corruption
- Favoritism
- Extortion
- Oppression in office
- Gross misconduct
- Habitual drunkenness.

- POLITICAL ACTIVITY -

The Attorney General has opined that the provisions of Article X, Part II of the 1974 Constitution of Louisiana do not specifically prohibit fire and police civil service board members from engaging in certain political activities while serving their terms. However, the appointing authority OR the civil service board shall conduct investigations against fire and police classified employees for possible violations of political activity include the fire and/or police representatives to the civil service board. If an employee is found in violation in one or more provisions of political activity, the employee shall be suspended for thirty (30) work days for the first violation and discharged for a second violation. If the civil service board conducts an investigation and finds such violation, said employee, in addition to the thirty (30) work day suspension, will also be mandated to receive prohibited political activity educational training. However, if the employee is found to be a candidate for nomination or elected to a public office, upon determination of a violation, the employee shall be discharged from the classified service.

Board members are prohibited against campaigning for or holding public office while also serving on the board. LSA-R.S. 33:2476 and 33:2536 prohibit all political activities for the period of six months preceding appointment; therefore, the OSE believes the spirit and intent of civil service law is to also prohibit such activities by civil service board members during their terms of office. We advise that the political prohibitions protect the board's autonomy and insulate the board members from political patronage. Furthermore, as a board member you will participate in decisions to uphold or overturn disciplinary actions of the appointing

authority. It may become an ethical dilemma if you publicly supported the appointing authority in his or her political campaign.

AS A BOARD MEMBER, WHOM DO I REPRESENT?

We discussed this briefly under the structure of the MFPCS System, but this one point has caused considerable discussion and discontent between those involved in the civil service process. Fire and police personnel often feel that the persons they have elected to serve on the Board are supposed to advocate for the employees, much like a shop steward in labor unions. Alternatively, civilian members may believe that they owe allegiance to the appointing authority and the administration.

– HOWEVER –

As a collective body, the Board owes loyalty to neither the employees nor the administrators. Rather, members share a sworn commitment to faithfully and impartially execute their duties as board members in the *PUBLIC'S* best interest. Once appointed, all members of the Board take an oath to uphold the Constitution and laws of the State of Louisiana and to impartially discharge their duties. This means that there should be a shared commitment to objectively and honestly evaluate the issues that are brought before the Board and to make the civil service system operate as the Legislature and the citizens of Louisiana have intended. *Each* member has an obligation to the governing/appointing authorities to provide advice and assistance regarding the maintenance and improvement of personnel standards and the operation of the classified system. *Each* member has an obligation to the employees in the system to provide advice and assistance regarding the maintenance, improvement, and administration of personnel matters related to any individual or group of employees. Foremost, *each* member has an obligation to the public to represent its interests in the operation of the system.

MFPCS KEY TO SUCCESS



As a civil service board member, you should base your actions on your sworn duty to faithfully and impartially uphold civil service law.

WHAT EXACTLY DOES THE BOARD DO?

Fortunately, the Municipal Fire and Police Civil Service Law outlines a very specific list of your duties under LSA-R.S. 33:2467 and R.S. 33:2537. As a Board, you will:

- ✓ Advise and assist the governing body, mayor, commissioner of public safety, and the chiefs of the fire and police departments with reference to the maintenance and improvement of personnel standards and administration in the fire and police services.
- ✓ Advise and assist the employees in the classified service with reference to the maintenance, improvement, and administration of personnel matters related to any individual or group of employees.
- ✓ Make, upon request or upon its own motion, any investigation concerning the administration of personnel or the compliance with the provisions of the law.
- ✓ Review and modify or set aside upon its own motion, any of its actions, and take any other action which the board determines to be desirable or necessary in the public interest or to carry out effectively the provisions and purposes of the Municipal Fire and Police Civil Service Law.
- ✓ Conduct investigations and pass upon complaints by or against any officer or employee in the classified services for the purpose of demotion, reduction in position or abolition thereof, suspension or dismissal of the officer or employee in accordance with the provisions of the law.
- ✓ Hear and pass upon matters which the mayor, commissioner of public safety, the chiefs of the departments affected, and the State Examiner of Municipal Fire and Police Civil Service bring before it.
- ✓ Make, alter, amend, and promulgate rules necessary to carry out effectively the provisions of the Municipal Fire and Police Civil Service Law.
- ✓
- ✓ Adopt and maintain a classification plan which is adopted and maintained by rules of the board.
- ✓ Make reports to the governing body, either upon its own motion or upon the official request of the governing body, regarding general or special matters of personnel administration, or with reference to any appropriation made by the governing body for the expenses incidental to the operation of the board.

BOARD MEETINGS

Conducting meetings, of course, is a necessary function of every public body, including your Fire and Police Civil service Board. Meetings must always be conducted in public, except under very specific circumstances when Boards are permitted by law to meet in closed session, and must follow an agenda. The procedures for conducting meetings are not spelled

out in law, but many Boards generally follow procedures as set out in *Robert's Rules of Order*. Copies of Robert's Rules of Order and other procedural guidelines may be easily found online.

Meetings of the Board are usually quite routine, where business conducted will typically include reviewing personnel actions that may have taken place between meetings, and assuring that those actions (appointments, promotions, demotions, suspensions, etc.) were accomplished by the appointing authority in the manner that is required by law. A typical meeting may include consideration of requests by the department chiefs to call for examinations, in order that Board may certify to the appointing authority lists of eligible candidates to fill existing or anticipated vacancies. Additionally, the Board may consider any matters brought to the Board's attention by the State Examiner's Office, administrators of the local government, and the department chiefs. Perhaps less routine are meetings that include the consideration of the adoption or revision of the Board's rules, additions or changes to the classification plan, or consideration to add to or delete qualification requirements for admission to exams. Not as routine for most Boards are meetings that must be held in order to conduct hearings and investigations. These occur whenever classified employees complain to the Board that they believe they have been subjected to disciplinary actions without cause and in bad faith.

FREQUENCY OF MEETINGS

Your board is required by law to meet, at a minimum, at least once every quarter in each calendar year. You may find, however, that more frequent meetings will be necessary. Most Boards meet once each month if there is business to conduct. Many boards meet twice or more each month, but that usually occurs in the largest cities and fire protection districts in the system where there are more employees, more frequent personnel movements, and a greater volume of tests.

SCHEDULING MEETINGS

Louisiana Law requires that your board must schedule your regular meetings at the beginning of each calendar year. You may think that you have enough trouble finding a time when everyone can meet, and you have no way of knowing what the board's business will be then anyway. You may ask, "How can we possibly be expected to schedule meetings a year in advance?" Fortunately, your Board is allowed to schedule special meetings which only require a twenty-four hour notice. A written public notice should be provided, however, for all meetings at least twenty-four hours before the meeting is to be held. The notice should include whether the meeting is a regular, special, or rescheduled meeting, and should include the agenda, date, time, place, and whether an executive session is to be held. Many boards have adopted special rules for posting public notices for regular meetings. Some require at least five-day notice. Check your local board rules to be certain.

Some meetings require different posting or notification requirements. For example, a regular or special meeting requires only a 24-hour notice. When meetings involve a rule change, however, the meeting must be posted for at least thirty days. If your Board is

conducting a hearing about a disciplinary action, all parties involved must be notified at least ten days in advance of the date and time of the meeting. In all cases, your chairman is required to call for the meetings and set the agendas, but if he fails to do so or is otherwise unavailable, any two members of the board may call a meeting by notifying the other board members with a written notice at least ten days in advance of the scheduled meeting.

THE AGENDA

The agenda is a written plan for the business that will be covered during a meeting. It is intended to inform both the public and the Board members of what is to be considered during the proceedings. Prior to meetings, the chairman should request board members to submit their items of business, and if known, the members should give the chairman an idea about the amount of time the matter may require for deliberation. Sometimes during a meeting, a member has a new, pressing matter that has come up since the agenda was posted. He or she may request the item to be placed on the agenda for consideration. However, when this occurs the item must be introduced and described with specificity. It can be added to the agenda only with a **unanimous** vote of the members present.

The agenda should be limited to items of business that can be efficiently handled in one meeting, so sometimes it will be necessary to prioritize the agenda items. On the next page is an example of an agenda for a typical Fire and Police Civil Service Board meeting:

MINUTES OF MEETINGS

Your civil service board is required to maintain minutes of all meetings. The Public Meetings Law (LSA-R.S. 42:11 - 42:28) provide that the minutes must, at least, contain the following information:

- **The date, time, and place of the meeting;**
- **The members of the public body recorded as either present or absent;**
- **The substance of all matters decided, and, at the request of any member, a record, by individual member, of any votes taken;**
- **Any other information that the public body requests be included or reflected in the minutes.**

THE LAC PETIT MUNICIPAL FIRE AND POLICE CIVIL SERVICE BOARD
WILL HOLD A PUBLIC MEETING
10:00 A.M., AUGUST 11, 2017
LAC PETIT CITY HALL COMPLEX, CITY COURTROOM
202 W. NORTHEAST STREET
LAC PETIT, LOUISIANA.

AGENDA

CALL TO ORDER

1. Pledge of allegiance
2. Moment of Silence or Prayer
3. Roll call to determine quorum, and recognition of guests.
4. Approval of minutes of the meeting held on July 5, 2017.
5. Public Comment

OLD BUSINESS:

6. Close of Application Period for Police Sergeant examination, and approval of applications for admission to test. Establish Roll Call for Police Sergeant exam.

NEW BUSINESS:

7. Acceptance and approval of new applications and reported test scores for the class of Police Officer, Firefighter, Police Communications Officer, and Fire Communications Officer, if any.
8. Acceptance and approval of test scores for Competitive Police Officer and Promotional Fire Captain exams given on July 20, 2017. Action to certify list of names and scores of persons eligible for appointment to vacancies in Police Officer class and for promotion to Fire Captain class. Certification to be made in writing to Mayor Thompson.
Approval of personnel action forms submitted since last meeting.
9. Accept request and schedule date for appeal hearing for Police Lieutenant T Hawke.
10. Request from Fire Chief Kelly Day to call for competitive tests for the classes of FIRE FIGHTER and FIRE INSPECTOR.
11. Any other business properly brought before the Board.

ADJOURNMENT.

Ida Nohtacre, SECRETARY
8/1/17

The Board Secretary, whether he or she serves in that office as a Board member, or as an employee of the Board, must make a record of the proceedings of all meetings. The minutes do not have to be a complete transcript of every spoken word, but they should be sufficiently complete so as to provide the public a sense of what was discussed, and by whom. The minutes should, as noted above, accurately report all motions, discussions on motions, and the votes of members. Following the meeting, the minutes should be completed and made available to the public as soon as reasonably possible. The Public Meetings Law does not require that the minutes must be available within any particular period of time, except, however, that such availability must be made within a reasonable period of time. Public body's often make their minutes available after they have been approved at a subsequent meeting. If the public body maintains a website, it must post the minutes to the website, as well.

The OSE requests that your Board send our office an “unapproved” copy of the minutes as soon as possible in order that we may review and advise of concerns or issues that may have occurred at the board meeting. Receiving the “unapproved” minutes allows for our office to offer timely guidance so that the board may address such concerns and/or correct at the next scheduled board meeting or special meeting. The “unapproved” minutes received from your Board also allows us to be responsive to requests for examinations, many of which are called for in order to maintain eligibility lists for promotional classes.

CONDUCTING MEETINGS

No law specifies what rules of order must be followed in the conduct of meetings of public bodies; however, many public bodies adopt some form of parliamentary procedure such as “Roberts Rules of Order”. The chairman calls the meeting to order at the predetermined time. At the discretion of the Board and its members, the meeting may begin with the “Pledge of Allegiance”, and a brief invocation or a moment of silence. The roll call is taken to be sure a quorum is present. (Public meetings *may not* be held in the absence of a quorum!) The minutes of the previous meeting should be read and, if there are no revisions, they should be approved as read. The chairman should then introduce any unfinished business. Following the unfinished business, your Board should consider any new business which will include any new items that have been placed on the agenda prior to the meeting. Each item is introduced for consideration, and deliberated.

As previously mentioned, if it is necessary to bring up additional business not appearing on the published agenda, the item may be added with a unanimous vote of the members. The matter to be considered must be identified and clearly stated, and before a vote is taken on the matter an opportunity must be given for public comment. The public should also be given an opportunity to offer comment about other items on the agenda. This comment period is typically offered at the beginning of meetings, and the Board may establish time restrictions on the comments. Finally, after all the business on the agenda has been covered, a motion to adjourn should be made, seconded, and the meeting will be ended with a majority vote.

The OSE has posted a video on its website about conducting meetings. To view the video go to: [ose.louisiana.gov/training video-cs bd meeting_updated.htm](http://ose.louisiana.gov/training%20video-cs%20bd%20meeting_updated.htm), or access it on YouTube at <https://www.youtube.com/user/lastateexaminer>

MFPCS KEY TO SUCCESS



If your board consists of five members, your quorum is four members present. For a three member board, two members must be present to conduct business.



Nuts and Bolts About: MOTIONS

The method by which the civil service board reaches decisions on specific items is by making motions. A motion proposes a matter to be discussed before the Board takes an official action on the matter.

Any member may:

- Make motions
- Second motions
- Debate motions
- Vote on motions



Any Board member, including the chairman, may offer a motion, or the chairman may call for a motion. When a motion is made, say, “I move that we . . .” Avoid negative motions, such as, “I move that we do not . . .” For the board to move into discussion on the matter, or to deliberate, it must receive a “second” from another board member. Either another member will second the motion or the chairman will call for a second. (If there is no second to the motion, the motion dies.) The chairman restates the motion by saying, “It has been moved and seconded that we . . .” This places the motion before the membership for consideration and action. The members of the board then either debate the motion, or may move directly to a vote. Once the motion is presented to the membership by the chairman it becomes “assembly property,” and cannot be changed by anyone without a substitute motion and further consent of the Board. Finally, a member will “call for question,” which prompts the chairman call for a vote on the matter. R.S. 42:5(C) requires that all votes must be “viva voce” which means “live voice” and the number of votes “for”, “against”, or not

voting, must be recorded in the minutes of the public body which shall be public record. This may be accomplished by the chairman asking those in favor to say “aye”, while those opposed say “no”. Any member may move for an exact count or recorded vote. If a roll call vote is taken, each member answers “yes” or “no” as his name is called. All members, including the chairman, may vote on a motion. A motion passes by an affirmative vote of the majority, or fails by a negative vote of the majority. A motion that receives a tie vote fails.

MFPCS KEY TO SUCCESS



The chairman votes. Some mistakenly believe that a chairman only votes in the case of a tie. This is simply not true. If the chairman were not permitted to vote, he would be disenfranchised as a board member.

RECORDING MEETINGS BY THE PUBLIC

The Open Meetings Law provides that any part of your Board’s public meetings “may be video or tape recorded, filmed, or broadcast live.” However, the Board may establish standards that will allow citizens to record the meetings without becoming obstructive. Supplying recordings on tape, dvd, or other media without allowing individuals to make their own tape is not a reasonable standard, and may be considered a prohibition that conflicts with the Public Meetings Law. Reasonable standards adopted by the Board should always insure proper decorum at public meetings, and will depend upon the facts and circumstances of each situation. For example, some matters that would have to be considered may include the meeting room and physical surroundings, audience attendance, and the number of demands made by the citizens to record.


PHONE POLLS

Sometimes situations may arise between Board meetings that require immediate action. It is wrong to assume that each member of the Board can be polled by telephone, email, or other casual contact to get the member’s vote on the situation, and then insert the situation and the results of the “vote” into the minutes of the next Board meeting. Louisiana’s Constitution of 1974 provides under Article XII, Section 3 that “no person shall be denied the right to observe the deliberations of public bodies and examine public documents, except in cases established by law. Such polling deprives the public of its right to observe such deliberations. A member who polls a majority of the members of a public body on a matter which may later be considered by the public body as a whole may violate the Open Meetings Law

if the poll is used to circumvent the purpose and intent of the Open Meetings Law. Knowing how a majority of the public body will vote on a matter prior to the actual vote at a properly noticed public meeting can mean that a measure passes with little debate or that a measure is never brought up for debate. Therefore, if a matter needs immediate attention and cannot be delayed until the next meeting, the chairman may call a special meeting with public notice given not less than 24-hours in advance of the meeting. As is the case with regular meetings, the notice must include the date, time, and place of the meeting, along with the agenda. For such a meeting to proceed, a quorum must be present.

WALKING QUORUM

In order that a gathering may be considered a public meeting under the Open Meetings Law, the presence of an actual quorum is at all times required. A “walking quorum,” for the purpose of the Open Meetings Law, occurs during a meeting of a public body in which the actual quorum is obtained and lost with the comings and goings of members. An actual quorum may be present over the course of the meeting, but from time to time the meeting may lose its quorum if members leave during deliberations. Discussions must be interrupted when the number of members present falls below the quorum.

<p style="text-align: center;">MFPCS KEY TO SUCCESS</p> <div style="text-align: center;"></div>
<p>“Phone Polls” and “Walking Quorums” are not permissible under the Open Meetings Law. The public should not be deprived of the opportunity to observe the deliberations of a public body in deciding upon a course of action.</p>

PROXY VOTING

Proxy voting is a form of voting whereby a member of a decision-making body delegates his voting power to another member of the same body to vote in his absence. Voting by proxy, secret balloting, or any other means that circumvent the intent of the Open Meetings Law is prohibited. LSA-R.S. 42:14(B) states:

Each public body shall be prohibited from utilizing any manner of proxy voting procedure, secret balloting, or any other means to circumvent the intent of this Chapter. (Emphasis added.)

CHANCE MEETINGS

Members of your Fire and Police Civil Service Board generally live and work in the same area, and may frequently come into contact with one another outside of their official duties. It is not uncommon for a quorum of Board members to be present at one location in “chance meetings” or social encounters. Don’t worry. The Open Meetings Law provides that where a quorum of members is present at an informal or social gathering, it is not a violation, as long as the Board’s business is neither deliberated nor voted upon during the gathering.

EXECUTIVE SESSIONS

Executive sessions are legal exceptions to open meetings that are allowed under the Public Meetings Law. They should not be the regular course of the Board’s business, but rare occurrences. They should be conducted only when necessary, and only for very few special circumstances. The executive session exceptions that are most often used by civil service boards are:

- 1. To discuss the character, professional competence, or physical or mental health of a classified employee. The employee must be notified *in writing* at least twenty-four hours *before* the meeting. Furthermore, the employee must be given the option to have the matter discussed in open forum.**
- 2. To conduct strategy sessions or negotiations with respect to prospective litigation, or to discuss pending litigation when an open meeting would have a detrimental effect on the litigating position of the board.**
- 3. To conduct investigative proceedings regarding allegations of misconduct.**

The State Examiner’s Office has heard of instances where civil service boards have gone into executive session for reasons that do not seem to meet the definition of extraordinary or special circumstances. We urge your board to use the provisions for executive sessions with great care and discretion. Louisiana Revised Statute 42:4.1 states:

It is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberation and decisions that go into the making of public policy. Toward this end, the provisions of R.S. 42:4.1 through R.S. 42:4.12 shall be construed liberally.

An executive session may only be convened upon the affirmative vote of two-thirds of the members present. The reasons for holding the executive session must be recorded in the minutes of the meeting, and the vote of each member on the question of holding the executive session shall also be recorded. Finally, no final or binding action may be taken during an executive session.

PUBLIC MEETINGS AND PRIVACY RIGHTS

Even though there appear to be no clear guidelines regarding matters protected as “privacy rights” a public body has a duty to discuss certain matters, protected by the right to privacy, in an executive session. For example, there is a right of privacy regarding the personnel performance evaluation of public employees, and the courts have specifically protected this information from mandatory dissemination. If the performance evaluations of public employees are being discussed at a meeting of a public body it has the right to discuss in executive session and has the duty to discuss in executive session unless the right of privacy is waived by the person whose evaluation is to be discussed, because that person has a privacy right expectation.

MFPCS KEY TO SUCCESS



Making an inappropriate move to go into executive session will generally receive formal objection from the media, the representatives of which have received extensive training in the Sunshine laws. If the topic is interesting enough to consider an executive session, it will probably make good news. Remember that most representatives of the media have access to a legal department, and are not hesitant to use it.

BOARD RULES

In order to effectively administer the fire and police classified system, it is necessary that the Board adopt rules. Upon adoption at a public hearing, your Board’s rules have the force and effect of law. The rules should, of course, include provisions for meetings, including types of meetings, schedules, and the procedures for conducting regular and special meetings, as well as hearings. The rules also must include leaves of absence rules, inasmuch as the Board is specifically required to do so by the MFPCS Law. Leave of absence rules must provide for annual leave and sick leave with pay, and may provide for special leaves of absence with or without pay, or with reduced pay. (Reduced pay is authorized only for extended leave of absence for employees who are disabled through injury or illness arising out of their employment.)

MFPCS KEY TO SUCCESS



When adopting or amending leave of absence rules, the Board should avoid including language that is more appropriate as departmental policy. For example, a rule requiring employees to inform a supervisor before the beginning of a shift that they are sick is best left to the department's standard operating procedures.

Rules of the Board must be adopted or amended at a public hearing following a notification period of at least thirty days. Notification must include the date, place and time for the public hearing, and must include both the current and proposed rules. Written notification must be given to the mayor or commissioner whom the rule may affect, the governing authorities of the parish or fire protection district, as the case may be. Also to be notified are the chief of the department that will be affected by the rule, and the Office of State Examiner. A copy of the notice and the rules must also be posted on the bulletin boards of each station of the affected service(s).

At the public hearing, an opportunity must be given to anyone who wishes to show cause as to why the rule, amendment, or any part thereof should not be adopted. No rule, regulation or order of the Board shall be contrary to or in violation of any provisions, purpose or intent of the MFPCS Law or other provisions of law.

ADOPTING RULES

The civil service board must, by law, adopt rules governing its own operations, as well as rules governing leave of absence for classified employees. This authority is found in LRS - 33:2478, 33:2497, and provides:

The board shall adopt rules to provide for leaves of absence in the various classes of the classified service. Such rules shall provide for annual vacation and sick leave with pay, and special leaves with or without pay. They may provide for special extended leaves with or without pay or with reduced pay for employees disabled through injury or illness arising out of their employment. The right to regulate the time at which any employee may take an annual leave, or any other leave which is not beyond the control of the employee, shall be vested at all times with the appointing authority.

This provision of the law has caused much confusion and ill will between the civil service boards and the governing authorities. Governing authorities either do not understand the Board's authority in this area or resent such power being vested with the Board. Once adopted, however, such rules have the force and effect of law (as long as they do not violate

any other state or federal law), so how do we get past this roadblock for the two entities which must work together?

The adoption of any rule of the Board requires public posting and notification of all parties involved, followed by a public hearing. The governing authority should be provided ample opportunity at the hearing to voice any objections and present any concerns to the Board. It is hard to believe how many times in the past we have received calls from governing authorities following the adoption of such a rule, only to discover that no one representing the governing authority attended the hearing to voice an objection to the proposed rule. Civil service boards, on the other hand, should diligently consider any evidence and objections presented by the governing authority. Holidays, sick and annual leave benefits have exponential monetary impact due to existing pay provisions. There are state general laws governing such benefits in many cities, and the Office of State Examiner will be happy to provide boards with recommendations based upon the prevailing laws. A civil service board has the *power and authority* to adopt a rule providing for an excessive number of holidays, for example, but such action will not be in the public interest. Reality tells us that there is only so much money available for public safety protection for the community, and the provision of excessive benefits might result in a loss of available manpower. In other words, the civil service board is well advised to carefully consider the evidence presented by the governing authority in objection to any benefit not mandated by state law.

THE CLASSIFICATION PLAN

The Board has a responsibility to adopt and maintain the classification plan as a “rule of the board.” The classification plan is a grouping of classes in the fire and police departments by titles or ranks, i.e., Police Officer, Police Corporal, Police Sergeant, etc. The civil service board groups all positions according to their similarities in duties, responsibilities, and qualification requirements. The various classes are then arranged to show the principal and natural lines of promotion and demotion. The Office of State Examiner works closely with your civil service board and the appointing authority to identify the primary duties of each class of positions by conducting job analyses. A job analysis provides validity documentation required by the EEOC to demonstrate that the class descriptions and exams that are used to make employment decisions are job related. The results of the job analysis reflect the duties of fire and police jobs as they are performed in your local departments; therefore, your class plan is unlike other Boards’ class plans.

The class plan is not static. From time to time, changes must be made to the classification plan, because the appointing authority may assign duties as he sees fit for the efficient operation of the department. The civil service board reacts to changes in duties, and must determine if the changes have resulted in a new class being created, or whether a position of one existing class has been changed so that it becomes a position of another existing class.

When new classes are added, the Office of State Examiner sends the proposed specification to the Board so that it may be posted for a thirty day period, following which a

hearing is held to consider its adoption. If the new class is defined as competitive, according to civil service law, the current incumbent may be allocated to a probational appointment to the new class at the meeting during which the class is adopted. The Board may, of course, elect to call for an examination if it so chooses. If the newly added class is promotional, according to civil service law, a test *must* be administered.

The requirement that the classification plan be adopted as a rule of the Board means that the job description and qualifications may only be adopted at a public hearing. A sufficient notification period of at least thirty days must be allowed before the public hearing in order that others may understand what changes are being contemplated. This is the appropriate period of time for the appointing authority and employees to voice any objections or to request changes.

EMPLOYMENT IN THE CLASSIFIED FIRE AND POLICE SERVICES

The Fire and Police Civil Service Law provides that permanent appointments and promotions for paid firefighters and police officers in the classified civil service shall be made only after certification pursuant to a general system based upon merit, efficiency, fitness, and length of service, under which certificates shall be based on examinations, which, so far as practicable, shall be competitive, and all employees in the classified service shall be employed from those eligible under such certification. (La. Const. 1974, Art. X, §17, LSA-R.S. 33:2531.)

Vacancies in positions of the classified service must be filled by the following methods:

1. Demotion
2. Transfer
3. Reinstatement
4. Reemployment
5. Promotional appointment
6. Competitive appointment
7. Temporary appointment

DEMOTION

A demotion is a change in employment from a position of one class to a position of a lower class which generally affords less responsibility and pay. Demotions are often associated with disciplinary actions; however, demotions are made also when an employee fails a working test, or when it becomes necessary to reduce the number of employees in the classified service, or in any class. Demotions for any reason, except for disciplinary action or for failing a working test, must be made in the order of least seniority within a class to the greatest seniority (“first in, last out”), and persons demoted shall have their names placed upon a reinstatement list for the period not to exceed four years. Any vacancy that occurs in

an affected class must be filled first from the list of names placed upon the reinstatement list, in reverse order (“last out, first in”).

An employee who is demoted as the result of failing a working test must be reinstated in the position that he or she held as a regular and permanent employee immediately preceding promotion. Like persons demoted for disciplinary reasons, those who fail the working test are not placed on a reinstatement list and are no longer eligible for promotion. Such employees must reapply and test again to become eligible for another promotional opportunity.



A Word about Non-Disciplinary Demotions and Lay-offs

There are, unfortunately, times of economic downturn when government revenues cannot fully support public services. These events affect the fire and police services as well, and often require departments to reduce staffing. The Fire and Police Civil Service Law provides that when a reduction in force is necessary, layoffs must be made from the lowest class in the classified service, or the lowest class in a group of classes in the classification plan. Therefore, a lay-off may include such lower level classes as Police Officer, Firefighter, Fire Dispatcher, Jailer, Department Records Clerk, and others. A lay-off is accomplished by separating employees in the order of total departmental seniority in the class or higher classes, from lowest to highest. This is often referred to the principle of “last in, first out.”

In order that a lay off may be correctly accomplished, the appointing authority must determine the amount of funding which must be reduced in personnel services, beginning with an assessment of savings that may be realized by making non-disciplinary demotions from the higher level classes. As classes become overburdened as a result of demotions, further demotions must be made until, finally, the appointing authority may initiate the lay off from the entrance or lowest classes, beginning with the employees possessing the least departmental seniority.

As demotions are made, the employees’ names are placed upon a reinstatement list for the appropriate class of positions, so that as positions are restored, they must be filled from the appropriate list in seniority order. Similarly, as employees are laid off, they are placed on a re-employment list and are entitled to be offered appointments, also in order of seniority. Names placed upon either the reinstatement lists or the re-employment lists, as the case may be, remain eligible for the period of four years from the date of the demotion or lay off.

TRANSFER

A transfer is the lateral movement of an employee between positions of the same class. Transfers may be made anytime at the discretion of the appointing authority. The appointing authority is not required to notify the Board, or to receive the Board's approval. An employee has the right to appeal the transfer to the Board, however, if the employee was moved to a position that is not within the same class (ex: Fire Driver to Dispatcher); is not in the classified service (ex: Fire Inspector to Building Inspector); or was made deliberately to discriminate against the employee (ex: transfer to a less desirable assignment on the basis of an employee's race).

REINSTATEMENT

A reinstatement is the act of placing an employee in a position to which he had been appointed immediately preceding a demotion for a non-disciplinary reason. An employee demoted from a working test must be reinstated in the regular and permanent position from which his or her promotion had been made and from which the employee commenced the working test. Employees otherwise demoted for non-disciplinary reasons are entitled to be reinstated to their former positions as vacancies may occur in the classes from which the demotions were made. The Board may remove the name of any person who declines an offer of reinstatement.

RE-EMPLOYMENT

Re-employment is the act of filling vacancies in the entrance or lowest ranking class in the classified service, or in any group of classes, by employing persons who had been laid-off because their class of positions were overburdened, and who were regular and permanent employees at the time of their lay-off. Re-employment shall be made from the names of persons placed upon the re-employment list, and in reverse order in which each employee was laid-off. The Board may remove the name of any person who declines an offer of re-employment.

If the appointing authority wishes to re-employ an employee who has voluntarily separated (resigned or retired) from the service, he must have prior approval of your Board. There are a few things your Board must consider before approval is given to the appointing authority. Your Board must determine if the person to be rehired is eligible by verifying that he was a regular and permanent (confirmed) employee when he resigned/retired, that it has been less than four years since his resignation/retirement, and that he has furnished your board with a favorable medical certificate. Your Board must also verify that there is not a list of eligibles when the appointing authority is requesting a reemployment to a position of a promotional class.

COMPETITIVE APPOINTMENT

Competitive appointments are made in the classified service for classes comprising the following duties and positions:

1. Fire Chief and Police Chief
2. Entrance or lowest ranking class in any group of classes;
3. Communications Officer or Dispatcher, including supervisory positions;
4. Automotive or fire apparatus mechanic;
5. Secretary to the Police Chief and Secretary to the Fire Chief;
6. Departmental Records Clerk.

Under certain circumstances, such as times when the civil service board's efforts to establish a promotional list fail to produce a list of qualified candidates from which an appointment may be made, the Board may find it necessary to open admission to tests on a competitive basis. This means that anyone, notwithstanding that he or she may not hold a position of the next lower class (or even within the department), may be admitted to the exam. If a passing score is achieved, the Board may certify that person for appointment to fill the promotional vacancy.

When the appointing authority proposes to fill a vacancy in a position of a competitive class, anyone whose name has been certified as eligible from a competitive employment list may be selected by the appointing authority to fill a vacancy in the respective competitive class. Selection is made without consideration of seniority, and, in fact, may be made from among a list of persons who have no previous experience with the department for which the test has been given. Eligibility lists for positions in the competitive classes are established by the civil service board as the result of competitive exams, which are administered as the needs of the service require. Competitive exams must, however, given in intervals of at least every eighteen months. Employment lists that result from competitive tests must be certified in score order; however, selection according to score is not required, nor recommended. Exams administered by the OSE for employee selection are not validated for selection by score, and civil service law does not mandate selection in that manner. Civil service law contemplates that persons receiving scores of 75% or more are equally qualified to be considered by the appointing authority for appointment. Of course, the appointing authority may use other selection criteria (interviews and background checks, for example) to make his or her final decision.

PROMOTIONAL APPOINTMENT

Civil service law requires that a vacancy in a promotional class must be filled by the selection of the person having the greatest seniority in the next lower class of positions. Promotional tests must be given at least once every eighteen months. Although the expiration date for promotional scores is four (4) years, civil service law requires that such exams are given every 18 months. Other times for promotional exams to be given could be

when a provisional appointment has been made to any class or when the appointing authority has specific departmental needs. Other times, promotional exams may be requested by the appointing authority because of specific departmental needs, or when provisional appointments are made to any class.

TEMPORARY APPOINTMENT

There are three categories of temporary appointments under the Fire and Police Civil Service Law: Provisional, Substitute, and Emergency Appointments. The appointing authority is not required to make temporary appointments; however, if such an appointment is necessary, there are provisions of law which must be followed for each type. Persons appointed to serve in temporary appointments generally do not accrue any permanency in the positions to which they have been appointed. (Note: Time served in temporary appointments is counted toward promotional seniority in the classified police service in the cities of Crowley, DeRidder, Lafayette, and Lake Charles.)

Provisional Appointment:

A provisional appointment is a type of temporary appointment in the classified service that may be made by the appointing authority when a bona fide vacancy occurs and there is no employment eligibility list from which a permanent appointment may be made. If a vacancy occurs in a position of an existing class, and there is no employment list from which the appointing authority may fill the vacancy, a provisional appointment may be made by the selection any person the appointing authority deems to be qualified. Provisional appointments permit the work of the position to continue while the Board attempts to establish an eligibility list from which a permanent appointment may be made. Provisional appointments must terminate after ninety-days; however, the appointment may be renewed by the Board for a subsequent ninety-day period.

Provisional appointments are made also when a position of a new class in the classified service has been created by the appointing authority. Such provisional appointments do not terminate until the Board adopts the class and allocates the position to the appropriate class. Thereafter, a test is held in order to establish an employment eligibility list from which the appointing authority must fill the vacancy on a permanent basis.

Substitute Appointment:

Substitute appointments may be made to positions from which the permanent employee is away from his or her position on authorized leave of absence, or when an employee is substituting in another position. Whenever a substitute appointment may be required in a position from which the incumbent will be absent for less than thirty days, the appointing authority may select anyone deemed qualified. However, when an absence will be for thirty days or more, and the position to be filled is promotional, the appointment must be made in the same manner as a permanent appointment would be made. In other words, the substitute appointment must be offered first to the person(s) on the reinstatement list

and then to the persons in order of highest seniority on the appropriate promotional employment list.

Emergency Appointment:

Emergency appointments may be made during local emergencies of a temporary or special nature. Such appointments may be made only for the duration of up to ninety days, but in any case, they shall be terminated upon the conclusion of the emergency period. When a state of emergency is declared by the governor, the appointments shall be effective for the duration of the state of emergency.

EXAMINATIONS

Beginning August 1, 2020, when the Board calls for examinations, it must provide a notification period of **ten** days in advance of the test. Such notifications must state whether the exam will be given on a competitive or promotional basis, and must provide the last date on which applications for admission to the test must be submitted. All notifications must be posted on the bulletin board of each station of the departmental service for which the tests are to be given. In addition, the Board must also publish on the OSE's website and the municipality's website, if available, for competitive exams during the ten-day period. The date and time of the exam does not have to be included in the notification; however, all approved applicants must receive notification in any manner the Board deems appropriate of the date, place and time of the exam at least five days in advance of the test.

After August 1, 2020, the Board will no longer call for the entrance firefighter or entrance police officer exam. These exams will be called for and scheduled by the State Examiner. Applications for these two exams will be submitted and received by the OSE for admission to the exam. The OSE will post the test day, the application deadline and place of exam on its website for a 10-days period. Applicants will be notified of the time and place of the exam at least five days in advance of the test.

For entrance firefighter and entrance police officer, applications will be available on the OSE website. The applicant will fill out the application and email it to the OSE at a designated email address.

For all other exams, applications may be obtained from the Board, or they may be printed from the OSE website. No application may be accepted after the closing date for receiving applications. Applicants for all fire and police employment tests administered by the state examiner must be a citizen of the United States, and must be of legal age. Persons applying for promotional exams must be serving in positions of the next lower class or classes, as the Board rules may provide. Beyond the minimum requirements set by statute, the civil service board is solely authorized to provide for qualifications necessary for admission to exams. Such qualifications or requirements may include age, education, physical requirements which are adopted as Board rules; however, the Board may reject applicants who are deemed to be physically unfit to perform effectively the duties of the position, who

is addicted to drugs or alcohol, has been convicted of a felony, who has been dismissed from the respective service for misconduct or delinquency, or who has been deceptive or fraudulent or has made false statement of any material fact.

The civil service board receives applications for admission to exams, not the governing authority or the chiefs of the departments. Once the closing date for applications has passed, the civil service board meets to approve or reject applications. The list of approved candidates should be forwarded to the Office of State Examiner no later than two (2) weeks prior to the test date. The Office of State Examiner will review the eligibility of promotional candidates based upon the qualifications adopted by your Board for each examination, then advise if any candidates appear to have been approved in error. The civil service board also has the responsibility for securing a suitable testing site.

Once the exams are scored results will be returned to your Board in a double sealed envelope, which we urge should not be opened until your Board meets to approve the scores. The results are not considered to be official until approved by Board action. The State Examiner's Office does not give exam results to the candidates. Candidates are notified of their final test score in any manner the Board prescribes, however, Boards usually send notifications by U.S. Mail.

Any applicant who has requested special accommodations on his/her application will be provided such accommodations provided the applicant presents to the civil service board a statement from a physician, psychologist, or other recognized disability professional, documentation that the applicant indeed has a disability and requires accommodations. Such accommodations usually require additional personnel, equipment, and testing facilities; therefore, please contact this office immediately, in writing, so that our office may make appropriate arrangements.

MFPCS KEY TO SUCCESS



Please advise the Office of State Examiner as soon as examinations have been requested so that we may be responsive to your needs. We have had occasions when a Board has not notified us until after the advertising period has been completed, thus seriously extending the amount of time between the Board's motion to call for the test and the date test results are received. It is fine to notify our office by phone, then follow with the written request.

CERTIFICATION AND APPOINTMENT

Permanent appointments in the classified fire and police civil service system must be made following the written approval of the civil service board, whereby the Board certifies that candidates have met the minimum statutory and regulatory requirements set forth for eligibility for appointment. In other words, when the appointing authority proposes to fill a vacancy in a position of the classified service, the civil service board must review the names of persons who appear on the appropriate employment list and determine that they have maintained their eligibility for appointment. Importantly, the Board must determine that eligibility has not been lost due to disciplinary actions that may effect their eligibility, such as suspensions without pay, or demotions to positions of lower classes. The Board must also assure that when any new names must be added to a promotional employment list, the names must be rearranged in the order of seniority, from highest to lowest. Once certified, the appointing authority must fill vacancies in promotional classes by offering the appointment according to the person with the greatest departmental seniority, who has the right of first denial. Other vacancies to be filled from the respective promotional position must be offered in the order of seniority, from highest to lowest, until all vacancies have been filled.

As mentioned previously, vacancies that occur in positions of competitive classes may be filled by offering an appointment to any person whose name appears upon the list. Certification of such lists primarily involves the Board's verification that all names appearing on the list have active scores, and that each person has remained qualified for selection.

MFPCS KEY TO SUCCESS



The Board's review of applications should be limited to the qualification requirements adopted by the Board for each examination. Leave the determination of the quality of the applicant up to the appointing authority.

REVIEWING PERSONNEL ACTIONS

The personnel action form (PAF) is a document created by the Office of State Examiner which is intended to facilitate the appointing authority's obligation to report personnel actions to the civil service board. The appointing authority is required by law to advise the civil service board, in writing, within fifteen days of all appointments, terminations, resignations, promotions, demotions, layoffs, and disciplinary actions. The civil service board, in turn, reviews the action taken (as reported on the PAF), and approves the action by Board motion if the action taken was in accordance with civil service law. If a personnel movement was not done in accordance with civil service law, such as the promotion of an employee other than the one with the greatest total departmental seniority, the PAF should be returned, unsigned, to the appointing authority for further consideration and corrective action.

Personnel action forms that correctly document employee actions are approved by Board action in open meeting, signed by the Board chairman, and distributed to appropriate parties. The Office of State Examiner assists the civil service board in this capacity by also reviewing the forms as they are reported to us.

MFPCS KEY TO SUCCESS



The civil service board chairman should not sign PAFs until they have been approved by Board action. The approval by the Board of the PAF indicates that the action taken was in accordance with civil service law as far as the Board can determine by the information provided. It does not indicate either approval or disapproval of the substance of any disciplinary action.

The PAFs reporting personnel movements and disciplinary actions form one component of the Board's records and should be maintained throughout the career of the employee. It is through an analysis of these records that the Board may determine and establish an overall seniority roster for the department. Seniority begins on the date of confirmation in the lowest class, for example, and must be reduced by calendar days lost due to suspensions. It is only by maintaining accurate contemporaneous records of seniority that the civil service board may evaluate promotions made by the appointing authority to ensure that they are done in accordance with civil service law. Personnel action forms are instrumental in the determination of eligibility for admission to exams, as well as verification by the Board to certify that an employee remains eligible for appointment to a classified position.

THE RECRUIT PERIOD

A recruit is defined as any person who has been appointed from an entry-level employment list for firefighter, firefighter/operator, or police officer, but who has not demonstrated successful completion of formal training that results in possession of Firefighter I certification or Police Officer Standards and Training (POST) certification, respectively. Any person who otherwise possesses such appropriate certification must immediately begin the working test period. (Note: At this writing, civil service law applicable to the cities of Baton Rouge, Bossier City and Lafayette requires that all entry-level firefighters must successfully complete the respective city's Fire Department Training Academy prior to beginning the working test, notwithstanding that employees may possess Firefighter I certification at the time of appointment.) The recruit period begins immediately upon appointment from the employment list and continues for the period of six months or until the appropriate certification is earned, whichever occurs first. Upon completion of the six-month

recruit period or upon certification, the working test period commences immediately. The fact that a recruit fails to obtain the appropriate certification during the six-month recruit period does not require that he or she must be terminated. Rather, the recruit must immediately begin the working test period, during which he or she would be expected to obtain the appropriate certification. In the event that a recruit may be subjected to corrective or disciplinary action, he or she does not possess the right to demand a hearing and investigation by the civil service board. Such appeals are authorized only for regular and permanent employees of the classified service.

THE WORKING TEST

Following every appointment to a permanent position of the classified service, whether the position is promotional or competitive, the appointee must immediately begin a working test. The working test period is commonly referred to as the “probationary period,” when the appointing authority evaluates the ability of the employee to successfully perform the duties of the position to which the employee has been appointed. The working test period is limited to a period of not more than one year, but may be completed after the employee has served at least six months. At the end of the working test, the appointing authority must, within fifteen days, notify the Board and the employee of his decision, in writing, to either confirm the employee as a regular employee of the class, or to reject the employee and return to him to his previously held position. If the employee is rejected during the latter six months of the working test, the employee is entitled to appeal to the Board, **but only upon the grounds that he or she was not given fair opportunity to prove his or her ability.**

There are differences in how probational employees are treated in the first six months of the working test period, as well as differences in how probational employees of the police service are treated, depending on whether or not the employee is serving in a position of a competitive class or a position of a promotional class. These differences are explained below:

The Fire Service

Except for employees who are appointed to an entry level position of firefighter, or an entry level position of fire communications officer (dispatcher), any probational employee who has served fewer than six months in a working test for any given position may not be rejected from the working test unless the Board grants prior approval. Grounds for rejecting such an employee are limited only to 1) the employee’s inability or unwillingness to perform satisfactorily the duties of his position, or, 2) his habits and dependability do not merit the employee’s continuance in the position. An employee for whom the appointing authority seeks such approval has the right to appear before the Board to state reasons in opposition to his removal.

The appointing authority is not required to obtain Board approval or to give reasons to the Board for rejecting probational firefighters or fire communications officers during the first six months of the working test. Therefore, because the employees have no right to

appeal to the Board, the may be considered to be “at will” through the first six months of the working test.

However, after the first six-month period of the working test, and at any time during the ensuing six-month period, employees serving a working test may be confirmed as regular and permanent. During this latter six-month period, the appointing authority may reject an employee from the working test for any reason. The appointing authority is required to notify the employ of its refusal to confirm the employee and the reasons for the refusal to confirm. Such employees may appeal to the Board, but only on the grounds that they were not given fair opportunity to prove their ability to satisfactorily perform the job. If the appointing authority fails to confirm or reject the employee, such failure to act constitutes a confirmation and the employee becomes a regular and permanent employee by operation of the law.

The Police Service

Except for employees who are appointed to an entry level position of police officer, or to an entry level position of police communications officer (dispatcher), no probational police employee who serves in a position of a competitive class may be rejected during the first six months in the working test, unless the Board has granted prior approval to the appointing authority. The appointing authority is not required to obtain Board approval or to give reasons to the Board for rejecting probational police officers or police communications officers. These employees may be considered, therefore, to be “at will” through the first six months of the working test.

No probational police employee who serves in a position of a promotional class may be rejected during the first three months of the working test without prior approval of the Board. In either case, the grounds for rejecting such an employee are limited only to 1) the employee’s inability or unwillingness to perform satisfactorily the duties of his position, or, 2) his habits and dependability do not merit the employee’s continuance in the position. An employee for whom the appointing authority seeks such approval has the right to appear before the Board to state reasons in opposition to his removal.

After the first six-month period of the working test, and at any time during the ensuing six-month period, employees serving a working test may be confirmed as regular and permanent. During this latter six-month period, the appointing authority may reject an employee from the working test for any reason. Such employees may appeal to the Board, but only on the grounds that they were not given fair opportunity to prove their ability to satisfactorily perform the job. The appointing authority is required to notify the employee of its refusal to confirm the employee and the reasons for the refusal to confirm. If the appointing authority fails to confirm or reject the employee, such failure to act constitutes a confirmation and the employee becomes a regular and permanent employee by operation of the law.

EMPLOYEE APPEALS AGAINST DISCIPLINARY ACTIONS

The civil service board has the responsibility for holding appeal hearings, but it is important to note that only regular and permanent employees (those confirmed in the department) have the right to appeal disciplinary actions. Recruits and probational firefighters, police officers and communications officers have not yet earned the right to have disciplinary actions reviewed by the Board. Probational employees of promotional classes, however, because they were confirmed in their entrance classes, do have the right to appeal disciplinary actions that they believe were taken without cause.

MFPCS KEY TO SUCCESS



Your Board must determine only if the appointing authority disciplined in good faith, for cause. Cause is the justification for discipline against behavior or conduct that has impaired the efficiency of the public service and bears a real and substantial relation to efficient and orderly operation of public service.



Nuts and Bolts About: APPEALS (Hearings and Investigations)

Notification:

In normal cases of disciplinary action of confirmed employees, the employee must appeal the action within fifteen days of official notification, and the Board must grant a hearing within thirty days of receipt of the letter of appeal. Your Board must advise both the appellant and appointing authority no fewer than ten days before the scheduled hearing. If either the appointing authority or the employee fails to show for the hearing, your Board may proceed to render a decision based upon the evidence brought before it.

Subpoenas:

Civil service law provides that your Board may issue subpoenas, and confers upon the Board the same power and authority as is possessed by the district courts of Louisiana. We recommend, however, that your Board consider adopting procedural rules for appeals which address this issue. Your rules should require that requests for subpoenas should be submitted to your Board at least eight days prior to the scheduled hearing. Your Board may consider a limit on the number of subpoenas, or may consider a nominal charge (\$40, for example) for each subpoena requested over a certain number. We are all aware of those instances in which an aggrieved employee decides to subpoena every employee in the department as a character witness.



Recusal of Board Members:

Civil service law provides that Board members shall recuse themselves in certain circumstances: if the Board member were directly involved in the incident out of which the disciplinary action arose, for example, or if the appealing employee is a close family member of the Board member. It is important to remember that only a Board member may recuse himself from a hearing. A Board may not “vote someone off”, for example, upon the request of one of the parties involved. If a Board member fails to recuse himself in a situation required by law, such action forms the basis for appeal before the district court.

Conducting the Appeal Hearing:

The hearing is conducted much like any other meeting of your Board with the chairman calling the meeting to order. Since the burden of proof rests with the appointing authority in disciplinary hearings, he should be the first to offer evidence and testimony. The appealing employee may then offer his or her testimony to convince the Board that the action taken by the appointing authority was not in good faith or for cause. Remember that your Board is not confined to the rules followed by the courts, and may conduct the hearing in the manner it deems most appropriate. Each side may present evidence and witnesses to support their view of the issue. Witnesses may be cross examined, and all Board members are allowed to ask questions. Witnesses may also be sworn in and sequestered at the beginning of the hearing so as to protect the integrity of the testimony presented to the Board.

Deciding the Issue and Rendering a Decision:

Your Board should carefully consider all testimony presented and base a decision on whether or not the appointing authority acted in good faith, for cause in taking disciplinary action against the employee. Your Board decides the issue by Board motion which is recorded in the minutes of the hearing. If the appointing authority was found not to have acted in good faith, for cause, the board may modify the action. The board may modify the order of removal, suspension, demotion, discharge, or other disciplinary action by directing a suspension without pay for a given period, a reduction in pay to the rate prevailing for the next lower class, a reduction or demotion to a position of any lower class and to the rate of pay prevailing therefor, or such other lesser punitive action that may be appropriate under the circumstances. If the disciplinary action is overturned, the board should issue an order to the appointing authority which makes the employee whole.



CONDUCTING INVESTIGATIONS

Your Board has a responsibility to conduct investigations based upon complaints brought by any citizen of the community. (You do *not* have to act on anonymous complaints.)

A situation which might conceivably come before the Board would be a case of misconduct by an employee that the Chief is aware of, but upon which he has refused to act. The Board, either on its own motion or based upon a complaint, may investigate the situation and order the appointing authority to take disciplinary action against the employee.

Some complaints may be well founded, while others may simply be retaliatory in nature. Your Board has the obligation to place the matter on the agenda and determine what action should be taken. There is no stipulation as to how in-depth the investigation should be, nor that the complainant must be satisfied.

BOARD'S RELATIONSHIP TO THE DEPARTMENTS

The management of the fire and police departments is vested with the appointing and governing authorities at all times. Your civil service board has responsibilities to *advise and assist* in matters related to personnel, but has no controlling interest in the department. Despite this fact being fairly obvious to most individuals, we have had Boards who insisted on getting involved in the day-to-day operations of the department. There was one Board which decreed that any training attended by members of the department had to be approved by the Board. In another case, a civil service board conducted employment interviews with applicants for entrance exams and excluded those individuals from testing who they felt would not make good employees. What was somewhat surprising to our office is that the appointing and governing authorities allowed such practices to continue.

PUBLIC RECORDS

As mentioned earlier, your civil service board is required to maintain minutes of all meetings. The minutes should be completed as soon as possible following the meeting and should be available to the public, if requested. Your Board also must maintain the applications it receives for examinations, and correspondence either created or received in the normal course of doing business. Such records should be kept separate from those of the governing authority. Because formal records retention schedules are governed by state law and standards established by the Secretary of State, we advise to contact the Secretary of State office in order to set up an appropriate schedule for your Board. Our experience with developing our records retention schedule is that your board will need to take an inventory of all the records you maintain such as: agendas for meetings; typed minutes and recordings of your meetings; posting notices for examinations and public hearings; the various types of correspondence received and sent by your board; eligibility lists; personnel action forms; applications for admission to examinations and for transferred scores; class plans and board rules previously adopted by your board; oaths of office; and all other records maintained by your board

Your Board will also maintain the permanent records of personnel employed within the jurisdiction, including all appointments, promotions, and disciplinary actions. Your Board

records must be separate from those of the governing authority. Many jurisdictions in our system are still governed by the provisions of the Partial Consent Decree entered into between the respective governing authorities, the Office of State Examiner, and the U.S. Justice Department approximately twenty years ago in settlement of *U.S. vs. the City of Alexandria, et al.* There are special reporting requirements for the consent decree, and we will be happy to assist you in determining if these requirements apply in the case of your department.

OPERATING FUNDS

Even civil service boards in very small fire protection districts need funds with which to operate. You must maintain records and advertise for examinations. All civil service boards receive funding, office space, necessary supplies, and equipment from the governing authority. R.S. 33:2480 and 33:2540 provide that the governing authority *shall* make adequate annual appropriations in order that your Board may operate and effectively carry out the duties imposed upon it by civil service law.

LEGAL ASSISTANCE

The Municipal Fire and Police Civil Service Law allows your Board to obtain legal representation whenever civil service law or its enforcement by your Board is called into question in any judicial proceeding, or whenever anyone fails to comply with your Board's lawful order or direction. The law provides that your Board may call upon the Attorney General, the chief legal officer of the area in which the Board is domiciled, or it may employ independent counsel. Practically speaking, many issues may be gladly handled by the city or parish attorney. Depending upon the nature of the problem, however, there may be a conflict of interest. For example, if your Board is seeking to have the appointing authority enforce a lawful order of your Board, she would not be able to represent the Board because she is the appointing authority's counsel. Therefore, if your Board requires independent legal counsel, it is our understanding that approval must be obtained from the Louisiana Attorney General, according the Louisiana Revised Statute 42:263.

TERMS & DEFINITIONS

<u>Allocation:</u>	The official determination of the class to which a position in the classified service belongs.
<u>Annual Leave:</u>	See “Leave of Absence, Paid.”
<u>Appointing authority:</u>	Any official, officer, board, commission, council, or person having the power to make appointments to positions in the municipal fire and police services.
<u>Appointment:</u>	The designation of a person, by due authority, to become an employee in a position, and his induction into employment in the position.
<u>Board:</u>	The municipal fire and police civil service board.
<u>Class, Classification, or Class of Position:</u>	A definitely recognized kind of employment in the classified service, designated to embrace positions that are so nearly alike in the essential character of their duties, responsibilities, and consequent qualification requirements, that they can fairly and equitably be treated alike under like conditions for all personnel purposes.
<u>Classification plan:</u>	All the classes of positions established for the classified service.
<u>Classified service:</u>	Every appointive office and position of trust or employment in the municipal government which has as its primary duty one of the functions specifically set forth to be included in the classified service by the provisions of this Part; and excludes all elective and appointive offices and positions of trust or employment which have a primary duty specifically set forth to be included in the unclassified service by the provisions of this Part.
<u>Demotion:</u>	Change of an employee in the classified service from a position of one class to a position of a <u>lower</u> class which generally affords less responsibility and pay.
<u>Departmental service:</u>	Employment in the public services offered and performed separately by the fire and by the police departments of the municipality.
<u>Eligible:</u>	A person whose name is on a list.
<u>Employee:</u>	A person legally occupying a position.

<u>Employment List, or List:</u>	A reinstatement employment list, a promotional employment list, a competitive employment list, and a reemployment list.
<u>Funeral Leave:</u>	See “Leave of Absence, Paid.”
<u>Governing Authority:</u>	The body which exercises the legislative functions of the political subdivisions (ex. city council; board of aldermen; parish council, fire board of commissioners.)
<u>Personal Leave:</u>	See “Leave of Absence, Paid.”
<u>Position:</u>	An office and employment in the municipal fire and police services, the duties of which call for services to be rendered by one person.
<u>Promotion:</u>	Change of an employee in the classified service from a position of one class to a position of a <u>higher</u> class which generally affords increased responsibilities and pay.
<u>Promotion Employment List, or Promotion List:</u>	An employment list containing the names of eligible persons established from the results of promotion tests given for a particular class of positions which is not specifically required by this Part to be established from the results of a competitive test.
<u>Promotion test:</u>	A test for positions in a particular class, which is not specifically required by this the Fire and Police Civil Service Law to be filled by competitive tests, admission to which is limited to regular employees of the next lower class, or the next lower classes when authorized by the rules, in the classified service.
<u>Recruit:</u>	An entry-level employee appointed from a competitive employment list for Firefighter, Firefighter/Operator, or Police Officer, who, at the time of appointment, does not possess Firefighter I certification or Police Officer Standards and Training (POST) certification, respectively. (Note: Shreveport also requires a recruit status for persons appointed from the competitive employment list for Fire Communications Officer who are not certified as Telecommunicator (NFPA Standard 1061).)
<u>Recruit period:</u>	The period from the date of initial employment from a competitive employment list for Firefighter, Firefighter/Operator, or Police Officer during which the entry-level employee enters formal training, which concludes six

months from the date of original appointment or immediately upon certification of Firefighter I, or Police Officer Standards and Training (POST), respectively.

Reemployment List:

An employment list for the entrance or lowest ranking class in the classified service, or in any group of classes as may have been grouped in the classification plan, containing names of regular employees who have been laid off under the "lay off" provisions of the Fire and Police Civil Service Law. This list shall not be applicable to persons who have resigned or have been discharged.

**Regular employee, or
Permanent employee:**

An employee who has been appointed to a position in the classified service in accordance with this Part after completing his working test period. An employee who has been "confirmed."

**Regular, or Regularly
Paid Department:**

Any fire or police department in any municipality that employs personnel in positions of the classified service as defined in the Section and compensates such personnel at regular intervals.

Reinstatement Employment

List or Reinstatement List: An employment list containing names of persons eligible for reinstatement in positions of a class from which they have been demoted for reasons other than disciplinary action.

Rules:

Formal and authoritative direction for conduct. The rules of the civil service board under the Fire and Police Civil Service Law have the force and effect of law; however, no rule may supersede state law. Rules must include the classification plan and leave rules, and may include procedures by which the Board conducts business. A public hearing is required before a rule may be adopted. Notification of the public hearing along with copies of the current (if any) and proposed rule shall be posted at the place of the public hearing at least thirty days prior to the public hearing. Notification and copies must be provided to the mayor, parish president, or chairman of the fire board of commissioners, to the public safety commission (if any), the chief of the department affected by the rule, and the state examiner. Notice must also be placed upon the bulletin board of each fire or police station. Rules that are not adopted in accordance with R.S. 33:2478 and 33:2538 are considered to have been adopted without effect.

Seniority:

(a.) Departmental Seniority (applies to all but Crowley, DeRidder, Lafayette and Lake Charles promotional police classes): The total employment computed for an employee beginning with the last date on which he was regularly and permanently appointed and has worked continuously to and including the date of computation. Time during which an employee has served in the armed forces of the United States subsequent to May 1, 1940, not to exceed four years, shall be construed to mean continuous service and shall be included in the computation of his departmental seniority. Total departmental seniority, including positions of any and all classes, or seniority in any one or more given classes, may be computed for an employee, but in either case employment shall be continuous and unbroken by a resignation or discharge of the respective employee. An employee who is finally discharged or resigns from his position shall forfeit all accumulated departmental seniority. An employee who is suspended and returns to his position immediately following the expiration of his suspension shall not forfeit his departmental seniority accumulated to the date of his suspension, but he shall not be given credit for the lost time at any future computation.

(b) Promotional Seniority (*applies to Crowley, DeRidder, Lafayette, and Lake Charles Police Departments only*):

(i) The total cumulative employment in a class of positions of the next lower class from which a promotion is to be made. Employment counted toward seniority in the next lower class shall include the aggregate of all temporary appointments, the working test period, and employment as a regular and permanent employee in the class, less the aggregate of suspensions without pay while serving in a position of the class. The appointing authority shall maintain accurate records of appointments and suspensions, and shall report such appointments and suspensions to the Board in strict compliance with R.S. 33:2503. An employee who is finally discharged or resigns from his position shall forfeit all accumulated seniority. An employee who is suspended and returns to his position immediately following the expiration of his suspension shall not forfeit seniority accumulated to the date of his suspension, but he shall not be given credit for the lost time in any future computation.

(ii) *Lake Charles Police Department only*: Promotional Seniority shall also include time an employee spends serving in the armed forces of the United States on official training, active training

exercises, or active duty deployment. In addition, in these instances, the employee's seniority shall be construed to be continuous employment and unbroken by a resignation or discharge of the employee.

Sick Leave:

See “Leave of Absence.”

Temporary appointment:

An appointment of an employee for a limited period of service without acquisition by the appointee of any continuing right to be retained beyond the period.

- a. Substitute Appointment: A type of temporary appointment of a person to a position from which the incumbent is away on authorized leave of absence or who is away from his position because he is substituting for another employee. When absence is fewer than 30 days, appointment may be made to anyone the appointing authority deems qualified. When absence is expected to be for 30 days or longer, appointment must be made from the proper employment list (reinstatement, reemployment, or promotional list).
- b. Provisional Appointment: A type of temporary appointment of a person to a position which has been permanently vacated. May be made only when a permanent vacancy must be made, and there is no employment list from which the Board may certify eligibles
- c. Emergency Appointment: A type of temporary appointing that occurs due to urgent emergent situations, such as those for which an emergency is declared.

Working Test Period:

The period of time, often referred to also as the *probational period*, the duration of which must be no less than six months nor more than a year following appointment to a classified position in which a classified employee must prove his/her ability to perform the duties and responsibilities of the position of the class to which he/she has been employed or promoted. Employees serving a working test are referred to as probational employees. The appointing authority may reject an employee at any time during the working test. Rejecting an employee from the working test is not a disciplinary action, rather it is the employee's failure of an “on the job” performance test.

OTHER STATE AND FEDERAL LAW RELATING TO THE FIRE AND POLICE SERVICES

As a member of a civil service board established and operating under the provisions of the Fire and Police Civil Service Law, you may find it helpful to be aware of other Louisiana Laws that apply to the fire and police services. These are general state statutes that are completely separate from the Fire and Police Civil Service Law. In part, these laws provide for the organization and operations of fire and police departments. They provide, as well, for rates of pay and mandatory employment benefits applicable to leaves of absence, extra compensation, and medical conditions resulting from job-related activities. This section of QuickStart does not attempt to provide details about these statutes, but will provide an overview and, where appropriate, some discussion about how these statutes dovetail with the Fire and Police Civil Service Law.

Minimum Salaries:

R.S. 33:1992 applies to cities with a population of at least 12,000, and to firefighters employed in parishes and fire protection districts. It provides that the minimum salaries for certain fire service positions are set according to the minimum base rate of pay for entrance firefighters. The minimum rate of pay for promotional positions and certain competitive positions in the fire service is based upon a percentage above the firefighters' minimum rate. R.S. 33:2212(A) and 33:2212.1 provide for minimum salaries of police officers. While the former applies to cities having a population of not less than 12,000 or more than 250,000, the latter statute applies to cities between 7,000 to 12,000 residents. R.S. 33:2212(B) – (G) provide for annual increases in certain cities. Except for new minimum salaries added for the city of Abbeville in 1982, the minimum salaries for police officers (as low as \$300/month) have not been amended since these statutes were enacted. Of course, each jurisdiction may set the minimum rate of pay above the statutory amounts for its firefighters and police officers. Naturally, minimum salaries will differ from department to department.

Unlike state, parochial and municipal civil service systems, the civil service boards under the Fire and Police Civil Service System have no jurisdiction over compensation and pay for members of the fire and police classified service. That authority rests solely with the governing body in each city, parish or fire protection district. However, the civil service Board is considered to have jurisdiction over matters of pay disparity between employees of the same class of positions, when all things being equal, employees of that class earn different rates of pay. All things being equal, of course, means that two or more employees share the same amount of departmental seniority and longevity of service (there is a difference), certifications, incentive pay, and other such employment factors.

Maximum Hours:

R.S. 33:1994 provides for work periods and for extra compensation for working beyond the work period, in much the same manner as the federal Fair Labor Standards Act. Again, the

civil service board has no jurisdiction over work schedules, the number of hours of work assigned, or compensation for working overtime. Discrepancies and grievances over such matters must be handled between the employee and the appointing authority.

Sometimes a situation arises when an employee is expected to work over his or her regular shift to take the place of, or substitute for, an employee who did not report to duty, whether approved or not. This would be considered different than requiring an employee to work overtime to due to a heavier workload or to complete a priority assignment. The former situation may be referred to by supervisors as an “emergency appointment” because the absence has caused a sudden staffing shortage; therefore, the employee must accept. When asked whether, in a “manpower shortage,” a supervisor can make an emergency appointment, and whether an employee is obligated to accept such an appointment, the Attorney General opined that any appointment, including an emergency appointment, is in the nature of an offer and acceptance (or declination). According to [AG Opinion No. 92-164](#) (September 4, 1992), employee absences due to routine and pre-approved leave do not qualify as an emergency and cannot serve as the basis of an emergency appointment. The opinion asserts the civil service board’s authority to adopt rules pertaining to provisional, substitute, and emergency appointments.

Sick Leave:

LSA-R.S. 33:1995 provides that every “fireman” employed by a municipality, parish or fire protection district “to which this Sub-part applies” shall be entitled to full pay during sickness or incapacity not brought about by his own negligence or culpable indiscretion for a period of not less than fifty-two weeks. Similar to the sick leave provisions for the fire service, R.S. 33:2214(B) also provides that each employee of the police departments in certain municipalities shall be entitled to sick leave with pay “aggregating not less than fifty-two weeks during any calendar year when conditions actually warrant.” According to [Attorney General Opinion No. 77-1002 \(July 12, 1977\)](#) the determination as to whether “conditions warrant” a police officer’s absence from work should be based upon the opinion of a physician.

In recent years the Attorney General opined that the provisions for firefighters’ sick leave with full pay are applicable irrespective of the population of the municipality of which he is an employee ([Op.Atty.Gen., No. 13-0150, November 14, 2014](#)). However, unlike R.S. 33:1995, the provisions of R.S. 33:2214.B appear to be applicable on to those employed in departments where municipalities’ populations are not less than 12,000 nor more than 250,000.

You may note other differences between the language of R.S. 33:1996 (fire service) and R.S. 33:2214.B (police service). Although both entitle employees of the fire and police services to sick leave up to fifty-two weeks with pay, [AG Opinion No. 00-0284 \(Sept. 11, 2000\)](#) explains the differences:

Firefighter is entitled to fifty-two week period for sick leave. No specific amount of time must be served on the job between sick leave periods. The fifty-two week sick leave period is not restricted to one calendar year. In contrast, the sick leave authorized policemen limits the fifty-two weeks to one calendar year. Both firemen and policemen are entitled to sick leave benefits even though the injury or illness may have occurred off-duty.

Five years later, the Supreme Court held that the sick leave benefit is applicable to both on-duty and off-duty illness, injury, or incapacity. [Johnson v. Marrero-Estelle Volunteer Fire Co. No. 1, sup.2005, 898 So.2d 351, 2004-2124 \(La. 4/12/05\)](#):

Rules that provide for leaves of absence for illness, injury or incapacity must be adopted by the Fire and Police Civil Service Board as a requirement of the civil service law. Your rules may provide the same benefit or a greater benefit than is provided by state law, but the rules cannot provide a lesser benefit than is provided in state law.

Annual Leave:

Annual leave, more commonly called vacation leave, is provided for firefighters under the provisions of LSA-R.S. 33:1996. It provides that employees of the fire service, after having served one year, are entitled to eighteen calendar days with full pay. Vacation privileges shall not be forfeited for any reason. R.S. 33:1995 further provides that after ten years, the vacation period shall be increased one day for each year of service, up to a maximum period of thirty days. Most firefighters work 24-hour shifts that span two calendar days; therefore, some refer to the 18 calendar days off duty to nine shifts.

In the police service, employees who have served an initial period of one year are entitled to fifteen days in a calendar year at full pay. This privilege “shall not be denied for any reason whatsoever.”

Rules that provide for leaves of absence for illness, injury or incapacity must be adopted by the Fire and Police Civil Service Board as a requirement of the civil service law. Your rules may provide the same benefit or a greater benefit than is provided by state law, but the rules cannot be less than that which is provided in state law.

Rules that provide for leaves of absence for annual vacation must be adopted by the Fire and Police Civil Service Board as a requirement of the civil service law. Your rules may provide the same benefit or a greater benefit than is provided by state law, but the rules cannot provide a lesser benefit than is provided in state law.

Work On Holidays:

The provisions of LSA-R.S. 33:1999 and R.S. 33:2214.1 provide for extra compensation to firefighters and police officers, respectively, when they are scheduled to work on a legally declared holiday. Holidays are not listed under R.S. 33:1999; however, firefighters are entitled to not less than ten holidays per year. Specific holidays are named under R.S. 33:2214.1 for

police officers: Christmas, New Year's Day, July 4th, Labor Day. Two additional state holidays are provided for, which are named at the discretion of the local governing authority. Neither statute mentions that employees of the fire and police service shall be granted leave of absence on these holidays. Rather, the statutes require extra compensation be paid to those who are scheduled to work on those days. (In lieu of the extra pay, the governing authority, at its option, may grant time off from work for which such additional compensation would be due and payable.) The OSE advises that the statutes provide for holidays only in terms of extra compensation for employees required to work. Arguably, employees who are not on the work schedule would not be entitled to pay, nor would they have need for a leave of absence with pay.

Louisiana Fire Service Bill of Rights and the

Rights of Law Enforcement Officers While Under Investigation:

Also referred to as the “*Firefighters’ Bill of Rights*,” (LSA-R.S. 33:2012, et seq.) and the *Police Officers’ Bill of Rights*” (LSA-R.S. 40:2531, et seq.), respectively, these bodies of state law are applicable to all members of the fire service and to all law enforcement officers throughout the state of Louisiana, including those covered by the Fire and Police Civil Service System. Notwithstanding the protections afforded regular classified employees under the Fire and Police Civil Service Law, these statutes are best known for the minimum standards with which the appointing authority must comply, whenever a classified firefighter or police officer is placed under investigation with a view to disciplinary action. It is important that you, as a Board member, must be aware of these provisions, inasmuch as your Board is required to grant hearings upon the request of classified employees when the employees believe the appointing authority subjects them to corrective or disciplinary actions without cause. The standards set forth under Firefighters’ Bill of Rights and the Police Officer Bill of Rights must be strictly followed or the appointing authority’s action must be declared an “absolute nullity.” Therefore, if the Board determines on review that the appointing authority failed to completely comply with any of the minimum standards, any further action by the Board in the appeal would be moot.

Veterans’ Benefits Laws and the USERRA:

The Fire and Police Civil Service Law has for many years included certain benefits for those who have served in the various branches of the U.S. military. Of course, an extra five points is added to any passing score on an entrance test taken by a military veteran. However, in addition, regular and permanent classified employees who leave the departmental service and enter the armed forces are granted military leave of absence without pay for the period of active duty service. They maintain their seniority while serving in the military, and are entitled to be completely restored to their positions upon their return from military duty. Returning veterans must, however, give notice to the appointing authority within sixty-days of their honorable discharge. Under provisions of the federal USERRA, veterans are entitled to take any promotional examinations that may have been missed due to their military leave

of absence, and, if eligible, to receive promotions to which they were otherwise entitled, as well as to be awarded any leave balances which would have accrued during their absence.

NOTABLE COURT CASES

Cleveland Board of Education v. Loudermill, (470 U.S. 532 (1985))

The U.S. Supreme Court ruled that, as an essential principle of due process, a deprivation of life, liberty or property must be preceded by notice and an opportunity for hearing appropriate to the nature of the case. The pretermination hearing, though necessary, need not be elaborate.

Griggs v Duke Power Co, (401 US 424 (1971))

The U.S. Supreme Court ruled that under Title VII of the Civil Rights Act, if employment tests disparately impact ethnic minority groups, employers must demonstrate that such tests are "reasonably related" to the job for which the test is required.

APPEALS

Shields v. City of Shreveport, (App. 2 Cir.1990, 565 So.2d 473, writ granted 571 So.2d 637, affirmed 579 So.2d 961)

Civil service board is to vacate disciplinary action taken by appointing authority against civil servant if it is no established that action was taken in good faith and for one of causes delineated in R.S. 33:2500; while appointing authority has burden of proof, it is not required to prove case beyond reasonable doubt, but merely by preponderance.

St. Tammany Parish Fire Protection Dist. No. 4 v. Picone (53 So.3d 704)

An examination of the record shows that while the Civil Service Board found that the complained of conduct did occur, the Civil Service Board further found that the policy or rule relied upon by St. Tammany Fire Protection District No. 4 to impose a suspension upon employees was ambiguous and in need of clarification.

APPOINTMENTS

Frame v. Yenni, (App. 4 Cir.1977, 347 So.2d 309)

It is the mandatory duty of appointing authority to make appointments to position of fire chief from the list of eligibles certified to him by the civil service board. Appointment of fire chief by mayor does not involve the exercise of discretion, even though the mayor may appoint any person on the list, but rather is a ministerial duty enforceable by mandamus.

Hoppe v. City of Shreveport (340 So.2d 1314 (1976))

The constitutional subsection concerning status of an incumbent of a municipal fire or police position when allocated does not permit creation of entirely new positions in an existing civil service system to be filled by political appointment without examination and without regard to seniority in service; in context, it merely permits ‘allocation’ or ‘reallocation’ of preexisting permanent positions without examination or certification. Where an entirely new municipal police position was created and then initially allocated within the classified service, no permanent appointment could be made to it except in accordance with examination and certification procedures set forth by the constitutional provision.

Babin v. Houma Municipal Fire and Police Civil Service Board, (327 So.2d 682 (La.App. 1st Cir. 1976))

City fire department’s acting chief’s alleged “appointment” of permanent captain as probational district chief was not within any form of appointment authorized by civil service law (R.S. 33:2471 et seq.), notwithstanding “approval” of such appointment by secretary of city’s fire and police civil service board.

Odom v. City of Minden, (Sup.1974, 300 So2d 462)

Where there was only one fire inspector, city’s discharge of person occupying that position was abolition of that classification, and public hearing required by constitution (Const. 1921, Art. 14, §15.1; continued as a statute by Art 10, §18 of the 1974 Constitution) for abolition of classification was required.

BOARD RULES

Authement v. Davidson, 366 So.2d 986 at 989 (La.App. 1st Cir. 1978)

Absent any expressed intent on part of legislature the term “days” must be construed and interpreted to mean “calendar days.”

BOARD AUTHORITY

Baton Rouge Firefighters’ Ass’n Local 557, AFL-CIO v. Baton Rouge Municipal Fire and Police Civil Service Board, (App. 1 Cir.1964, 167 So.2d 482, application denied 246 La.906, 168 So.2d 820)

Any initial orders, sealing with disciplinary action in connection with violations of civil service rules by employees are directed to appointing authority and authority is compelled to take whatever action municipal fire and police civil service board directs.

Any action taken by municipal fire and police civil service board should be within framework of civil service law (Const. 1921, Art. 14, §15.1, continued as a statute by Const. 1974, Art. 10 §18) and must, of necessity, be related to and in conformity with procedures set forth in those continued provisions of 1921 constitution dealing with procedure for employee discipline.

CLASSIFIED EMPLOYMENT

Bonnette v. Karst, Sup.1971, 261 La.850, 261 So.2d 589

Provision of civil service law that tenure of persons who had been regularly and permanently inducted into position of the classified services was to be during good behavior did not confer lifetime tenure to city firefighter but, rather, meant that the firefighter should not be removed except for cause during their civil service tenure.

Fakier v. Picou, (158 So.2d 285)

Constitutional provision setting up a police and fire civil service board was meant to include the municipal police department within its scope, and the relevant statute in so far as relating to the police department was not an unconstitutional enlargement of such constitutional provision.

Kenner v. Pritchett and Municipal Fire and Police Civil Service Commission of the City of Kenner (432 So.2d 971)

Because one employee receives a "harder" discipline than another, this in itself is not sufficient for finding the Appointing Authority in "bad faith" and justification for reducing the disciplinary action. Court ruled that (1) constitutional protection afforded civil service employees is only against finding without cause; (2) appointing authority demonstrated that conduct of police officer in sleeping on duty impaired the efficiency and orderly operation of the police department; and (3) fact that particular employee is the first to be terminated for violation of department rules does not show that appointing authority acted in bad faith.

City of Kenner v. Wool, (433 So. 2nd 785)

Disciplinary action against employee is determined to be arbitrary or capricious unless there is real and substantial relationship between the improper conduct and the efficient and orderly operation of the public service.

City of Kenner v. Wool, (320 So. 2nd 245)

In an appeal by an employee to a city civil service commission, the commission's scope of review is limited to determination of whether action taken by appointing authority

was in good faith, and commission is not vested with authority to modify or set aside the decision of an appointing authority merely because commission disagrees with that decision and finds it too harsh.

City of Shreveport v. Willis, (765 So.2d 1245)

The statute requiring reinstatement of a permanent classified city civil service employee when the civil service board finds that the appointing authority's action was not taken in good faith for cause is designed to protect the employee from political or otherwise arbitrary action by the appointing authority.

"Good faith" within the meaning of the statute requiring reinstatement of a permanent classified city civil service employee when the authority's action was not taken in good faith for cause, is linked to the decision to discipline by the appointing authority, not to the degree of the disciplinary action taken.

Lehmann v. Musgrove, et al., (La.App.,374 So.2d 1284)

Comments: By becoming a candidate for political office, a Board member vacates his membership. See AG Opinion dated 11-13-90.

Powell v. City of Winnfield Fire & Police Civil Service Board, (370 So.2d 109)

Disciplinary action must include a complete statement of the reasons therefore with particularity.

Ricca v. City of Baton Rouge, (450 So.2d 1032)

A mandatory duty was placed upon the fire chief by LSA-R.S. 33:2501 as the appointing authority to reinstate the employee immediately upon determination by the municipal fire and police civil service board that the employee was not terminated in good faith for cause, and a writ of mandamus was the proper procedure to enforce the legal authority granted to the Board so as to enable the employee to be reinstated with full back pay to the date of removal. Appointing authority may not take a suspensive appeal.

PAY MATTERS

La Grange v. Fire Protection Dist. No. 4 of St. Tammany Parish (868 So.2d 40)

Employment-related pay disputes involving firefighters and police officers fall within the original jurisdiction of the district court, rather than the fire and police civil service boards; state constitution does not grant the fire and police civil service boards the same "broad and general rule-making" power that is granted to the state and city civil

service commissions, and gives district courts original jurisdiction of all civil and criminal matters, except as otherwise authorized by the constitution.

NOTABLE ATTORNEY GENERAL OPINIONS

The Office of State Examiner has compiled a very extensive file of Attorney General Opinions related to the Louisiana Fire and Police Civil Service Law and to matters related to other Louisiana Statutes affecting stakeholders in the classified fire and police services.

APPEALS – BOARD

14-0118 (14-12-19)

The term “entry level firemen” as used in La. R.S. 33:2495 and La. R.S. 33:2555 means a fireman in the lowest level of the classified fire service of the appointing authority. An appointing authority is not required to obtain prior permission of the local civil service board before an “entry level fireman” who has served less than six months of his working test period can be removed or rejected from the working test period and if removed or rejected, the fireman does not have a right to appeal to the local civil service board.

92-172 (92-05-12)

The Municipal Fire and Police Civil Service Board has the authority to issue subpoenas and/or subpoenas duces tecum for pre-hearing purposes, and to fix and require the payment of reasonable costs for the issuance and service of such.

91-349 (91-12-03)

Legal cause for disciplinary action exists if the facts found by the Board disclose that the conduct of the employee impairs the efficiency of the public service. Of course, there must be a real and substantial relation between the conduct of the employee and the efficient operation of the public service.

78-955 (78-01-27)

Fifteen day limit for appeal may not be waived by the Board.

77-1489 (77-12-12)

Fifteen days time in which to appeal may not be waived. No one is charged with the responsibility of informing employee of right of appeal although it would be a good practice for appointing authority to do so.

75-537 (75-05-05)

If Board reinstates former employee with retroactive pay, appointing authority must enforce order of the Board and cannot take a suspensive appeal.

APPOINTMENTS

82-958 (82-10-30)

Vacant position must be offered to all persons on reinstatement, employment, or re-employment list before being offered to an employee who has resigned and seeks re-employment.

96-260 (96-08-02)

Addresses questions related to the subject of substitute appointments. Over 30 days made in accordance with R.S. 33:2554 or 33:2494.

92-164 (92-09-04)

For the purpose of Municipal Fire and Police Civil Service law, employee absences due to routine and pre-approved leave do not qualify as an emergency and cannot serve as the basis of an emergency appointment.

One is not obligated to accept an "appointment" to any employment, including an "emergency appointment" of a current employee.

10-0178 (10-12-16)

A fire department employee who is a regular and permanent employee in his current competitive position is not automatically entitled to an appointment by voluntary demotion to fill a vacancy in his former promotional class and position, in which he was unconfirmed, having served only two months of the working test period.

Rather, where a vacancy exists, the appointing authority has the discretion to grant an employee's request for voluntary demotion. This employee removed himself from the working test period in his prior position by accepting his current position, and if his request for voluntary demotion is granted, this employee is not entitled under law to credit for the two months served, but must begin a new working test period to be confirmed as a regular and permanent employee in the position.

APPOINTING AUTHORITY

91-355 (91-07-23)

The appointing authority has no power to delegate certain disciplinary action. There is no violation of the civil service law when the appointing authority delegates disciplinary matters in limited circumstances to department supervisors under strict guidelines set by the appointing authority.

92-454 (92-07-02)

(Lawrason Act Cities) The mayor is the chief municipal administrative officer and is given the authority to supervise and direct the day-to-day operation of all municipal departments and agencies (other than the police department with an elected chief of police). Aldermen have no individual authority to issue work orders to a municipal department as this administrative task is delegated to the mayor.

82-430 (82-05-19)

(Lawrason Act) ONLY Appointing Authority has authority to suspend or take other disciplinary action. The power to employ and terminate the employment of a municipal police officer is vested solely in the mayor and board of aldermen, as the governmental appointing authority of the municipality. They also have the authority to take corrective and disciplinary action against police officers. (emphasis added.)

BILL OF RIGHTS

13-0227 (14-05-20)

La R.S. 40:2531 requires the recording of any questioning of a police employee or law enforcement officer during a pre-disciplinary hearing conducted by the appointing authority. Such questioning, provided it arises out of the conduct which the police employee has been noticed is the subject of the hearing, would not constitute a new investigation under La. R.S. 40:2531. Lastly, municipal fire and police civil service boards have the same power and authority as a district court to subpoena witnesses and compel the production of books and papers pertinent to any authorized investigation or hearing.

03-0095 (03-05-01)

Defines when an investigation begins: The opinion made the following statement:

In accord with Opinion 93-52, our interpretation of R. S. 40:2531 reflects that an investigation begins when an authorized person begins to make inquiry or collect evidence concerning a situation with an officer where the end result is "with a view to possible disciplinary action, demotion, or dismissal."

02-0467 (02-12-31)

Cited LSA-R.S. 40:2531 (B)(1), then made the following statement:

The statutory language noted above makes it clear that whether an investigation has resulted in a "validated" complaint is not controlling on the issue of when an officer must be advised he/she is under investigation. A police officer under investigation must be so advised at that point where the officer is interrogated regarding the subject matter of the investigation. Because the statute is protective of rights, the term "interrogated" must be broadly construed to include questioning of any nature about the "complaint" without regard to how formal or informal the questioning may be.

BOARD DUTIES AND AUTHORITY

95-49 (95-02-08)

A municipality may not compensate a member of the local municipal fire and police civil service board for serving as secretary to the Board.

92-666 (92-11-20)

Debts incurred by a Municipal Fire and Police Civil Service Board while performing its statutory duties are the liability of the governing body; Board's attorney's compensation is not subject to the approval of the Mayor or Board of Aldermen.

92-353 (92-06-23)

A member of a municipal fire and police civil service board may not be represented by proxy. Proxy representation by a member of a public body is clearly prohibited regardless of whether it is written or oral form. See also: AG Op. Nos. 78-1144 (Sept. 12, 1978) and 81-1156 (Oct. 27, 1981.)

81-1151 (81-10-29)

Board's rule-making power. Rule of Board requiring one year experience as a regular employee as a qualification for taking a promotional test is valid.

52-02-06

Board has no authority over the operation, conduct, or policy of a police or fire department – only general or special matters of personnel administration.

BOARD MEMBERS/MEMBERSHIP

97-325 (97-08-12)

Although the law requires a district attorney to investigate allegations concerning removal of a fire civil service board member if presented with a properly executed petition signed by taxpayers, he nonetheless is required to refrain from proceeding if his investigation fails to warrant further inquiry. (DA required by R.S. 33:3536(H) to investigate the matter presented but mandated by law to refrain from proceeding if he determines that the lawsuit is without merit.)

82-976 (82-10-15)

No member of a Board (Municipal Fire and Police Civil Service Board) shall be a candidate for nomination or election to any public office or hold any other public office or position of public employment. A Board member may not concurrently serve as a school principal or a U.S. Post Office employee.

80-788 (80-06-23)

Board may not elect a new chairman prior to the expiration of the term of the present chairman. R.S. 33:2536(K)

78-1286 (78-10-10)

Only the fire and police employee members of the civil service board may hold public employment, and then only their regular employment in the fire and police department. Member of municipal fire and police civil service board may not be employed at same time by municipality as special police officer.

(Our note: therefore, a fire or police department civil service board member **CANNOT** work for another fire or police department)

CLASSIFIED SERVICE

79-449 (79-06-06)

Fire and Police Civil Service Board may not adopt a promotional scheme which reduces the significance given to seniority under Art. X, Sec. 17 & 18 of the LA Constitution of 1974 and R.S. 33:2494.

DISCIPLINARY ACTION

78-1218 (78-10-11)

Relative to disciplinary action, there is no specific time limit in which appointing authority must act; the facts surrounding each case must be considered.

80-1493 (80-12-03)

After one year has elapsed since a person was placed on sick leave, he may be terminated if he cannot return to work in his regular position.

EMPLOYMENT

93-397 (93-06-24)

"Full-time" means the period of time which a person normally works or is expected to work in an appointive office or employment and which is at least 7 hours per day of work and at least 35 hours a week of work.

Classified or unclassified, temporary or permanent, a person may not hold two full-time positions in state or local government.

83-672 (83-09-21)

Where a person holds two part-time employments that equal or exceed the number of work hours required to constitute full-time employment, that person may not additionally hold another full-time employment position (R.S. 42:61). Definition of full-time employment defined in R.S. 42:62(4).

93-277 (93-05-05)

An employee may be required to sign a contract stating they will have to repay the training fee if the individual terminates his employment prior to a period not to exceed two years after taking the training course.

LEAVES OF ABSENCE

03-0027A (03-05-30)

Buying, selling, and trading of accrued compensatory leave is up to the local civil service board, which, if it does allow this activity, must adopt rules to define the practice, outline the conditions for its use, and define how much compensatory leave may be bought, sold, or traded within a given time (as to prevent any other violation of law)

95-386 (95-09-27)

Fifteen days mandated annual vacation leave refers to fifteen eight-hour calendar days. The police officer is then entitled to a total vacation period of 120 hours annually.

92-767 (92-11-25)

The Fire and Police Civil Service Board has exclusive authority to provide for annual and sick leave for fire and police personnel.

87-295 6 (87-10-0)

Employee may continue to receive sick leave compensation while engaged in "outside employment" under certain circumstances. Injury or disability need not happen on job to be eligible for sick pay under R.S. 33:1995.

81-1236 (82-03-16)

Following work day may not be considered holiday when holiday falls on employee's day off. Employee's birthday is not legal holiday, but authority may so declare for police employees. Additional compensation is one times the regular rate of pay.

R.S. 33:2214.1

R.S. 33:1999

81-286 (81-02-27)

Fire fighter is entitled to 52 week period for sick leave period. No specific amount of time must be served on the job between sick leave periods. The 52 week sick leave period is not restricted to one calendar year. R.S. 33:1995

80-1493 (80-12-03)

Fifty-two (52) week or calendar year would start when employee first went out on sick leave even though the employee briefly returned to work on "light-duty".

Employee is entitled to fifty-two weeks in a calendar year when the conditions actually warrant (Hoffpauir v. City of Crowley)

After one year has elapsed since a person was placed on sick leave, he may be terminated if he cannot return to work in his regular position.
(letter to New Iberia)

80-471 (80-05-13)

A policeman is allowed sick leave benefits for 52 weeks a year whenever he is actually sick or injured, whether or not the disability occurred while in the performance of his duty.

Definition of "when conditions actually warrant".

LEGAL COUNSEL; FUNDING FOR CIVIL SERVICE BOARDS

03-0306 (03-09-18)

A contract for the employment of general counsel for the Fire and Police civil Service Board does not require the approval of the Mayor and Board of Aldermen. The municipality must provide funding for the contract.

MEDICAL EXAMINATIONS

92-319 (92-11-12)

American Disabilities Act of 1990 prohibits use of pre-employment medical exams. Medical exams may be required following conditional offer of employment and fitness-for-duty medical exams may be conducted.

MILITARY SERVICE

92-60 (92-06-02)

15 days of military leave is 15 calendar working days. Employee is entitled to 15 calendar days of leave for days on which the employee would otherwise be required to work, regardless of how the actual hours worked are distributed in a given day.

In Military leave of absence provision, giving 15 days of leave during any one calendar year, "days" interpreted to mean "calendar days" and not "work shifts." (not 8, 10, 12, or 24 hour work shifts)

The 15 days refers to only those days the employee would have been required to work. Absence on working days for which the officer or employee shall suffer no loss of pay.

80-703 (80-08-01)

Returning veteran to be returned to position he occupied before entering armed forces. May not be appointed to higher level class on which employment list his name appeared prior to entering armed forces if that list has expired.

PUBLIC MEETINGS

00-423 (00-12-28)

Open Meeting Law (R.S. 42:4.1) states that all meetings of public bodies must be open to the public - no telephone conferencing. The public policy behind the Open Meetings Law is to ensure the maintenance of a democratic society by requiring that all public business be performed in an open and public manner so that citizens may be aware of the performance of the public officials and the decisions that go into the making of public policy.

99-385 (99-12-06)

Member of public body cannot attend a meeting or vote by way of telephone (this would not satisfy the open meetings law). In order to establish a quorum of a public body, the physical presence of a simple majority of the total membership of that body is required.

94-376 (94-09-07)

R.S. 42:7.1 mandates all public bodies shall keep written minutes of all their open meetings and sets forth what the minutes shall include. Public records are subject to retention for three years.

89-550 (89-12-04)

The discussion of records privileged under the Public Records Law is grounds for an executive session under the Open Meetings Law.

89-352 (89-08-29)

Opinion concerning whether or not social gatherings, at which a quorum is present, constitute meetings as envisioned by the open meeting laws.

Extensive comment in attached opinions 88-162, 88-08-31(88-358), 77-1508, 77-224, 76-1399.

85-354 (85-04-30)

Substance of each item under new and old business must be stated in notice for upcoming meeting under Open Meetings Law in order to put interested persons on notice of what the proposed proceedings of the Board are.

The board secretary shall prepare minutes with sufficient detail to inform the public of the nature of the actions taken or deliberated upon by the Board. Also, the minutes must be published in the Board's official journal. (R.S. 38:3306; R.S. 43:171)

See also AG Opinion #87-676 (11-23-87)

This public document was published by the Office of State Examiner, Municipal Fire and Police Civil Service at a total cost of \$500. One hundred copies were printed by the Office of State Examiner, 8550 United Plaza Blvd., Suite 901, Baton Rouge, LA 70809, to provide advisory information about the Fire and Police Civil Service Law under authority of LSA-R.S. 33:2479 and 33:2539.